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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

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FIFTEENTH CONGRESS—SECOND SESSION.

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THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

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FIFTEENTH CONGRESS—SECOND SESSION:

COMPRISING THE PERIOD FROM NOVEMBER 16, 1818, TO MARCH 3, 1819,  
INCLUSIVE.

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1855.



FEBRUARY, 1819.

*District Judges.*

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The engrossed bill to authorize the people of the Territory of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act for the relief of Pierre Dennis de la Ronde; an act for the relief of Rees Hill; an act for the relief of Gabriel Godfroy; an act for the relief of Nathan Ford; an act for the relief of David Henley; an act for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; an act to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Commissioner of the Public Buildings, and to direct a defence therein; an act authorizing the purchase of live oak timber for naval purposes; and an act to regulate the pay of the army when employed on fatigue duty; in which bills they ask the concurrence of the House.

#### COASTING TRADE.

The bill from the Senate, "supplementary to the acts concerning the coasting trade," which had been referred to the Committee of Ways and Means, was reported by Mr. SMITH, of Maryland, without amendment. [This bill proposes to divide the seacoast and rivers therein into four districts, as heretofore stated in detail.]

Mr. SILSBEE moved an amendment to the bill, which proposed, in effect, to divide the seacoast of the United States into two districts, instead of four, as contemplated by the bill; the first district to extend from the eastern limits of the United States to the southern limits of the State of Georgia; the second district from the river Perdido to the western limits of the United States.

This motion gave rise to a discussion of the merits of the bill, as well as of the particular proposition; in which Messrs. SILSBEE, SMITH, of Maryland, ORR, LIVERMORE, and WHITMAN, took part; and the debate had proceeded for some time, when

Mr. TRIMBLE, to give further time for considering a proposition so important in its character, moved to lay the bill on the table; which motion prevailed, and the bill was laid on the table.

#### DISTRICT JUDGES.

Mr. SPENCER, from the committee appointed on the tenth day of April last, to inquire into the official conduct of William P. Van Ness, judge of the southern district of New York, of Matthias B. Tallmadge, judge of the northern district of New York, and of William Stephens, judge of the district of Georgia, made a report on the case of Judge Van Ness; which was read, and ordered to lie on the table.

Mr. S., from the same committee, also made a report, in part, on the case of Judge Tallmadge; which was read, and ordered to lie on the table.

The reports are as follows:

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That, in reference to the conduct of William P. Van Ness, Esq., judge of the southern district of New York, the committee have endeavored, by the examination of voluminous documents and of a number of witnesses, to arrive at a knowledge of the transactions to which their attention was necessarily directed by the report of the Judiciary Committee made to this House on the 5th day of March last. That report stated that \$117,307 01 of the funds of the district court of the southern district of New York was unaccounted for by Theron Rudd, the late clerk thereof, and that it has been most grossly and nefariously purloined. As the resolution under which this committee was appointed emanated from the Judiciary Committee, it became the first object of inquiry to ascertain how far Judge Van Ness was implicated in the misconduct of the clerk. After a diligent examination, no evidence has been discovered to establish any participation by Judge Van Ness in the embezzlement of the funds of the court; nor does it appear that he has received any of those funds, or derived any benefit from them. That there was, however, a remissness on the part of Judge Van Ness, a want of constant vigilance of the money of the court, and of rigor in enforcing the provisions of the law and the rules of court, will, in the opinion of your committee, appear from a statement of the facts. Rules had existed in the court from the 1st day of November, 1811, requiring the clerk to keep a distinct account in the bank where the court moneys were deposited, as clerk of the court, subject to the inspection of the judge and the district attorney, and forbidding the withdrawing any such money from the bank without an order signed by the clerk and countersigned by the judge, stating the title of the cause, and the party to whom the same was to be paid. Soon after Judge Van Ness took his seat on the bench, he repealed that part of the rule requiring his signature; the reasons for which, as assigned by Judge Van Ness on a former occasion, were, that the clerk was the responsible and accountable officer, in whose custody the law placed the funds of the court; and that the check contemplated by the rule would give great and unnecessary trouble to the judge in adjusting the claims of individuals, and to the suitors who might apply to him during the vacations, at his residence, one hundred and thirty miles from New York. The committee, however, think that, in most cases, the claims of suitors must have been ascertained in the judgment of the court; and to them it appears that, although the rule may have been originally adopted on a special occasion, yet the object of security to the funds was so great as to supersede all considerations of inconvenience, and to require its continuance. The rule subjecting the clerk's account to the inspection of the judge and the district attorney was also so modified by Judge Van Ness as to confine the right to the judges only.

It had been one of the rules of the court, and was adopted by Judge Van Ness, that the clerk should exhibit to the court on the first day of each August and February term a full account of all the moneys in his hands, or standing to his credit as clerk, to be examined by the court or a judge, and to be filed in the office of the clerk of the northern district. From the certificate of the clerk of the southern district, it appears that no such account has ever been rendered. His certificate embraces a portion of time in which Judge Tallmadge presided in the southern dis-

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trict, and the whole time when Theron Rudd was clerk.

An old act of Congress requires the clerks of district courts to give bonds in the sum of \$2,000 for the faithful discharge of their duties. Although this sum is altogether inadequate to the security of such large amounts as were paid into the district court of New York during the time Theron Rudd was clerk, yet the hazard of losing even that amount would induce some watchfulness on the part of the clerk's sureties. Theron Rudd had been clerk of the district of New York some time previous to the act dividing the State into two districts, which passed 9th April, 1814, and, pursuant to that division, on the 11th April, 1814, he was appointed clerk of the southern district. From the certificates of the clerk of that district, and of the northern district, it appears that there has not been filed, in either of their offices, any bond by Theron Rudd for the faithful discharge of his duties as clerk of the southern district. The omission is the more remarkable as Mr. Rudd had previously given several bonds as clerk, under various reappointments, after having been removed.

It appears from the statements of the honorable Mr. Daggett and the honorable Mr. Hunter, of the Senate, that so late as the last of February, 1817, Judge Van Ness appeared to be ignorant of the perilous condition of the funds of the court, at a time when apprehensions were entertained by several gentlemen of the city of New York, who had communicated them to their friends in Congress. Judge Van Ness appeared before the Judiciary Committee of the Senate on the 1st March, 1817, and stated his objections to the passage of a bill then pending before that committee, and which afterwards became a law, by which moneys in the courts of the United States were directed to be deposited within sixty days from the 3d of March, 1817, in the office of the Bank of the United States, when there should be one within the district, and requiring the signature of the judge to an order for the payment of such moneys. The objections were substantially the same as the reasons urged for the repeal of the rule before mentioned, viz: that it would be unnecessary, and would give much trouble. He assured the committee of the Senate that the money was perfectly safe; that it was in the Middle District Bank, north of the highlands, where it had been carried from apprehensions of danger during the war; that the bank was respectable, and the clerk was responsible under his bond; and that it became his duty to see to the security of the money. The law passed, making it the duty of the judges of the different courts to cause the payment of the money, as before stated, and directing that any officer refusing or neglecting to make such payment should be proceeded against by attachment for contempt. On the 30th April, 1817, a rule was entered by Judge Van Ness, directing the clerk to pay over the moneys of the court, according to the provisions of the law, within sixty days from the 3d day of March then last. On the 16th day of June, 1817, an order was entered for an attachment against Theron Rudd for not complying with the rule of the 30th April. A copy of an attachment is furnished the committee, dated the 30th day of June. It appears from a rule of the court, entered on the 23d day of June, that the clerk had then absconded. On the 8th January, 1818, Thomas Morris, the marshal of the district, returned that, by virtue of several writs of attachment, he had arrested Theron Rudd, but found

him in the custody of a sheriff by virtue of an execution issued out of one of the State courts of the State of New York, and had therefore committed him to the common jail of the county where he had found him. Further proceedings on the attachment were discontinued by direction of the Secretary of the Treasury, who instructed the district attorney to proceed by action against the clerk. The great delay in these proceedings is apparent, and it cannot be ascribed wholly to the district attorney, as the law seems to have made it the special duty of the judge to cause the money to be deposited according to its provisions.

According to the fair import, if not to the letter of the act of April 18, 1814, it became the duty of every court of the United States to designate a bank where its money should be deposited, if there should be any incorporated bank within the judicial district. On the 3d August, 1814, Judge Van Ness made a rule that all moneys which should thereafter be paid into his court should be paid to the clerk, who should deposit the same to his credit in some bank or banks to the north of the highlands, in the State of New York, until the further order of the court. The reason given for this rule was, the apprehension of danger from invasion by the enemy. Your committee do not perceive how that reason could operate to prevent the designation of some certain bank or banks. The report of the Judiciary Committee, made at the last session, states the inability of that committee to prosecute its inquiries, from a want of knowing the particular bank where the money was deposited. It is obvious that the omission of such a designation removed a considerable check upon the improper disposition of the funds by the clerk. The committee cannot discover any satisfactory reason to account for the money being suffered to remain in that situation for two years after the peace was known in this country, or for its not being deposited in some bank in the city of New York.

The report which this committee have already made respecting the official conduct of Judge Tallmadge will exhibit the courts held by Judge Van Ness, in the northern district, during the time he received an additional allowance for his services in that district. Those services do not appear to have been so great as Congress expected. With regard to the southern district, Judge Van Ness appears to have given great attention to its business. He has held all the stated terms of that district, excepting two, which have occurred since his appointment, and he has also held many long and arduous special terms.

There have been complaints against some decisions and orders of Judge Van Ness. But the respect which this committee entertain for the Constitutional rights of a judge, and for the laws, which provide adequate remedies for any errors he may commit, forbids their questioning any judicial opinions.

One instance, however, appears, from the papers they have examined, to partake more of the ministerial than judicial character. It was the case of a cargo which was a prize to the privateer *Tickler*, which had been sold, and the money brought into court. The judge authorized the clerk to draw out the money, exceeding \$145,000, and to pay it over to the claimants, instead of directing the payment to be made to the claimants immediately; and he ordered the duties and the two per centum belonging to the navy pension fund, exceeding \$15,000, to be paid to the clerk, who was to pay it over to the collector, whenever the court

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determined the amount due to that officer. It is not perceived why the money was not as secure in the bank as in the hands of the clerk. It appears to have been entirely lost; and, from the papers before the committee, it cannot be discovered that the court has yet determined what amount should be paid to the collector.

Under a sense of the duty imposed upon them, the committee submit these facts and observations, although, in their opinion, they do not furnish any ground for the Constitutional interposition of the House.

Respecting the official conduct of Matthias B. Tallmadge. The committee have not been apprized of any other charge against the official conduct of Judge Tallmadge than his having omitted to hold the terms of the district court for which he was appointed, according to law. It appears that Judge Tallmadge took his seat on the bench as judge of the district of New York on the 16th day of July, 1805. From that time until May, 1810, he held all the stated and regular terms of the court, (excepting that the August term in 1809 was postponed two days,) and held thirty-five special sessions. The May and August terms, 1810, were not held; the November term was held, and he presided at a special court in December of that year. In 1811, the stated terms of February, August, and November, were adjourned without being opened; the May term was held, and special courts also were held in June, October, and November, of that year. The February and May terms of 1812 were not opened, but two special courts were held in May. On the 29th of April, 1812, the act passed authorizing the appointment of an additional judge of the district, and on the 3d of July, 1812, Judge Van Ness, who had been appointed under that act, took his seat on the bench. After that period, Judge Tallmadge held eight stated terms and special courts at New York; two of the special courts with Judge Van Ness. Special courts were held in August, September, October, and December, of that year, and also the stated November term, by Judge Van Ness, who held a special court also in January, 1813. The February and November terms of that year were adjourned, the latter by Judge Tallmadge, the former by Judge Van Ness, who held special courts in March, April, May, June, July, September, and November, and the stated terms in May and August.

On the 9th April, 1814, the district was divided, and Judge Tallmadge was assigned to the northern district. Three stated terms and one special court had been held in the northern part of the State previous to the division in September and October, 1812, by Judge Van Ness. The May, one of the September, and the October terms, in 1813, had been adjourned; a special court was held in June, and one of the September terms in that year was held by Judge Van Ness. No courts appear to have been held in that district after that period, until September, 1814, when Judge Van Ness held the stated term in that month, and also the stated terms in October, 1815, and April, 1817, and a special court in November, 1817. One of the September terms, and the October term of 1814, were adjourned, and also the September term, 1815, and the September and October terms, 1816, and the January and Utica May terms, in 1818. The May terms in 1814 and 1815, the September term, 1815, and the May and September terms, 1816, in that district, entirely failed.

On the 7th September, 1815, and the 21st October 1816, Judge Tallmadge held special courts, and the stated term in October, 1816, at Salem. He held the stated terms in July and October, 1817, a special court in May, 1818, and the stated terms in May, June, and November, 1818.

It appears satisfactorily, from the testimony of several physicians, and of the honorable Nathan Sanford, given on a former inquiry into the conduct of Judge Tallmadge, that in 1810 his health became extremely delicate, and that very great exertion of body, or any unusual agitation of mind, invariably produced severe sickness, so as to disqualify him for any official duties; and that his life was prolonged by visiting a more genial climate in the Winter season.

On entering upon the duties of his office in 1805, Judge Tallmadge encountered a mass of business which had accumulated from the ill health and the death of his predecessor, and from the want of any judge in the court for the time immediately preceding his appointment. The sickness of Judge Patterson, who should have presided in the circuit court, materially increased the labors of the district judge.

The committee are of opinion that there is nothing established in the official conduct of Judge Tallmadge to justify the Constitutional interposition of the House. They have deemed it their duty, however, to present the facts, to enable the House to form an opinion on the merits of the case.

#### ARKANSAS TERRITORY.

The House then resolved itself into a Committee of the Whole, on the bill to provide a Territorial government for the southern part (the Arkansas country) of the Missouri Territory.

Mr. TAYLOR, of New York, moved to amend the bill by inserting a clause (similar to that incorporated, on the motion of Mr. TALLMADGE, in the Missouri bill) to prohibit the existence of slavery in the new Territory.

This motion gave rise to a wide and long-continued debate, covering part of the ground previously occupied on this subject, but differing in part, as the present proposition was to impose a condition on a *Territorial* government, instead of, as in the former case, to enjoin the adoption of the principle in the constitution of a *State*, and as it applied to a more southern Territory.

Mr. TAYLOR, of New York, in rising, said he regretted being obliged to vote on this bill with so scanty information. The select committee which reported it, had laid on our table no statement of facts—no census showing the different kinds of population in the territory, nor even the aggregate of all descriptions. The situation and condition of existing settlements are as little known. It, however, is generally understood that the climate and soil are suited to the culture of wheat, corn, cotton, and tobacco. The delegate from Missouri now informs me that the number of inhabitants, exclusive of Indians, may be estimated at 20,000, of which one-tenth are probably slaves. Mr. T. said he was unwilling to allow the introduction of any more slaves: it could not be necessary for agricultural purposes. All the productions before mentioned, could be brought to perfection, and raised in abundance, by free-men. Cotton, and tobacco, for exportation, had

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been chiefly produced by the slaveholding States. But is it not reasonable, asked Mr. T., that at least one small portion of our country, capable of growing these staples, should be left open to the enterprise and industry of the North and East. He saw no good reason why that portion of the Union which he had the honor, in part, to represent, should be excluded from participating in this valuable species of agriculture. That such would be the effect of allowing a free introduction of slaves, he had fully demonstrated to the Committee when the bill for the admission of Missouri into the Union was under consideration. Mr. T. said it must be evident from the present ratio of population, as stated by the delegate from Missouri, that the labor of the territory was now performed chiefly by freemen. He hoped this state of things might not only continue, but improve. He therefore, could not consent to render labor disgraceful—to connect it, in public sentiment, with servility, and thereby degrade the condition of laboring men.

The gentleman from Kentucky, (Mr. CLAY,) has asked, said Mr. T., what the people of the South have done, that they are to be proscribed, and had expressed his deep regret at the introduction of this amendment. We, sir, said Mr. T. do not proscribe them; we leave them in the full enjoyment of all their rights; we only forbid them to practise wrongs: we invite them to the territory in question, but we forbid their bringing into it a population which cannot but prove its misfortune and curse; a population which, if once introduced, will fasten like an incubus upon all its energies, and from which it can never be relieved.

I regret, said Mr. T., the pertinacity with which gentlemen maintain their opposition. To my mind the amendment is both reasonable and necessary; and, if the welfare of the territory were alone consulted, I should entertain no doubt of its adoption by an almost universal vote. But other interests are to be protected; and it is said that, as the country was purchased with our common fund, it ought to inure to the common benefit. This, said Mr. T., may be considered a truism; but, unfortunately for the argument of the gentleman who adduced it, it has no application to the case before us. If it were proposed that the proceeds of the public lands in Arkansas should be appropriated to the use of the commonwealth of Massachusetts, the objection would have weight. But, said Mr. T., nothing like it is contemplated. The money to arise from the sale of lands in that territory, as in all others, will go into the National Treasury, and be expended on national objects.

The gentleman from Kentucky, (Mr. CLAY) has charged us, said Mr. T., with being under the influence of negrophobia. Sir, he mistook his mark. I thank God that the disease mentioned by that gentleman, is unknown to my constituents; and it is because I wish to exclude it from Arkansas, that I have moved this amendment. But, sir, the excitement which this motion has produced, too clearly shows that the negrophobia

does unhappily prevail in another section of this country; that it haunts its subjects in their dreams, and disturbs their waking hours. You, sir, have lately seen its influence on one honorable gentleman, (Mr. COLSTON,) who considered the appearance of a black face in the gallery, pending yesterday's discussion, of sufficient importance to justify a grave address to the Committee, and an animated philippic upon the impropriety of this debate. To such gentlemen it may be "a delicate subject;" but to me I confess it is not. In my estimation, said Mr. T., the delicacy of the subject is lost, and ought to be forgotten in its immense importance. "A delicate subject!" in which is involved the security and happiness of unborn millions; a subject too delicate for discussion!—because our debate may be overheard by a negro in the gallery. Sir, it is a subject vastly important to my children, and the children of my constituents, who shall hereafter emigrate to Arkansas; and, while I have the honor of a seat on this floor, I will discuss it freely whenever public duty, in my judgment, requires it.

The honorable Speaker, said Mr. TAYLOR, has asked, if we wish to coop up our brethren of the slaveholding States, and prevent the extension of their population and wealth. Mr. Chairman, cast your eye on that map; survey the immense and fertile regions which stretch from the Sabine to Georgia; count, if you can, the millions of rich acres in Louisiana, Mississippi, and Alabama, lying uncultivated and waste. If gentlemen wish to disperse their slaves, here is an abundant opening. In all these States, new as they are, slavery has already planted its roots too deep, I fear, to be ever eradicated. With this opening I hope gentlemen will be content. Let them not carry the pestilence beyond the Mississippi, into a country where its existence, as yet, is but little known. Let them agree to the amendment, and every vestige of slavery will soon disappear from the territory in question.

A gentleman from Virginia (Mr. TYLER) has added his lamentations on the existence of slavery in this country to those of his colleagues who preceded him. He informed us, too, that the Legislature of that State had passed resolutions, now in this House, requesting the aid of Congress to mitigate its evils. He nevertheless took care to give notice that he too should vote against the exclusion of slavery from Arkansas. It is not my province, said Mr. T., to question the consistency of any honorable member of this Committee, but certainly, Mr. Chairman, I should not have anticipated such a conclusion, from the evidence before him. If Virginia has found slavery an intolerable burden; if she seek the aid of Congress to alleviate its evils, confessedly too great, and too inveterate for cure; if she deplore the policy by which it was introduced, I should not have expected to find a representative from Virginia legislating for the prosperity of Arkansas, and unwilling to exclude it from that territory.

Another gentleman from Virginia (Mr. HUGH NELSON) has charged us with fighting behind a masked battery. He considers this amendment

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as an entering wedge to prepare the way for an attack by Congress on the property of masters in their slaves, in the several States. The charge is unfounded. We know too well the Constitutional powers of this House, and the Constitutional rights of the States, to entertain an idea of such flagrant usurpation. Nay, sir, said Mr. T., we do not propose, even in this territory, over which we have full and undisputed sovereignty, to take from the master his property in a slave—so far from it, that if it be fact that the labor of slaves is there in demand, by prohibiting their further introduction into the territory, that demand will be increased, and the value of such property now there, will be greatly enhanced. The same gentleman, said Mr. T., has expressed an opinion that if our ancestors had maintained the doctrine embraced in the amendment, the Federal Constitution would never have been formed, and he has thought proper to warn us that, if it be persisted in, the confederation will be dissolved. Has it then come to this? Is the preservation of our Union made to depend on the admission of slavery into a territory not belonging to the States when the Constitution was adopted? A territory purchased by Congress, and for which Congress are bound to legislate, with a faithful regard to the public welfare. Are we to be terrified from doing our duty, by threats of disunion and dismemberment? If the day ever arrive when the Representatives of one section of the country shall legislate in this hall under the influence of threats from another, it will be high time for a dissolution of the Union. No, sir, said Mr. T., that honorable gentleman greatly mistakes the people of this country, if he supposes this Union—cemented by so strong interests, necessary to all, and especially to the slaveholding States—consecrated by so much glorious achievement—sanctified by the blood of so many heroes—endeared by victories won with the exertions and treasures of all—that this Union, the preservation of which is the first lesson of lisping infancy, and the last prayer of expiring age—that this Union can ever be destroyed or in the least impaired by promoting the cause of humanity and freedom in America.

But, sir, said Mr. T., the honorable gentleman has mentioned a fact which shows how Virginia herself felt and acted on the subject of slavery, in the Convention of 1787. It was, he informs us, a Representative from Virginia who drew the ordinance excluding slavery from the Northwest Territory. This, said Mr. T., was a noble act—worthy to immortalize the name of Grayson. But alas! His zeal for the rights of man, his love for future generations, his active philanthropy and manly eloquence no longer animate this assembly. Would to God his mantle had fallen on some one of his successors. Then that successor, and not the humble individual who now addresses you, would have introduced this amendment to the consideration of the Committee. He would have supported it by eloquence so powerful, by argument so unanswerable, by pathos so irresistible, that instead of the meagre

majority for which I hope, it would be carried by the united voice of every member.

Mr. Chairman, said Mr. T., I too sensibly feel the value of your time, to proceed in this discussion. I have touched, but with the utmost brevity, the most prominent objections which have been urged against the amendment: less I could not say in justice to myself—much more I ought to say in justice to the subject. The general considerations which I had the honor to suggest, when in committee on the Missouri bill, are equally applicable on the present occasion. I will not repeat them—they are fresh in your recollection. May the future inhabitants of Arkansas approve the decision we now shall make—I ask no more. Let their interests be our guide, and the further introduction of slavery will not contaminate their borders.

Mr. WALKER, of North Carolina, spoke as follows: Mr. Chairman, in taking a view of this subject, let it not be forgotten, that we are legislating in a free country, and for a free people; the importance of the principle now contested, demands our utmost attention and vigilance to the great principles of the Constitution, and particularly to that friendly compromise entered into by the worthy framers of that instrument. It was then conceded that the slaveholding States were to hold an equal portion of policy, and to be entitled to the same advantages as other States in the Union. But it appears by the prohibition and restriction attempted to be made as a condition of admitting new States into the Union, a direct violation of that sacred compact is attempted. The amendment proposed by the gentleman from New York, (Mr. TAYLOR) which prohibits slaves from being taken into the territory of the Arkansas, completely deprives the citizens of the Southern section of the Union from any advantages arising in the Government, or from having either part or lot, or any inheritance, on the west side of the Mississippi. Sir, was it not purchased by the whole United States? Did not the Southern States contribute their full share for that purchase? And are they not morally and politically entitled to equal advantages of the soil? It is to be presumed that a great portion of the population of that territory will be emigrants from the Southern States; they will be disposed to remove to that climate suited to their constitution and habits, or the culture of rice and cotton. Shall they be proscribed, and prohibited from taking their slaves? Sir, if so, your land will be an uncultivated waste—a fruitless soil; it is further south than the 35th degree of latitude, a low and warm country, that will not support a laboring white population.

But, sir, I contend that we have no legitimate power to legislate on the property of the citizens, only to levy taxes. We might, with the same right, prohibit other species of property from crossing the Mississippi. Have not the Southern States yielded to the Eastern States so much of their favorite system of free white population, as to give up and relinquish the new States of Ohio, Indiana, Illinois, and all the vast territory

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north of the river Ohio? and shall the slaveholding States be withheld from a small share of the prospective advantages arising in the settlement of this new territory? Gentlemen seem to think that they are serving the cause of humanity effectively, in prohibiting slaves to cross the Mississippi. In this they are mistaken; they are withholding from them the means of all the comfort and happiness their condition affords; that is, food and raiment. It is well known that in the frontier country the servant feeds as his master, and is sufficiently clothed; while in the interior of the old States the means of subsistence is scanty and improvident.

But, sir, the great and radical objection to the amendment proposed, is taking away from the people of this territory the natural and Constitutional right of legislating for themselves, and imposing on them a condition which they may not willingly accept. In organizing a territorial government, and forming a constitution, they and they alone, have the right, and are the proper judges of that policy best adapted to their genius and interest, and it ought to be exclusively left to them. If they wish to exclude slaves from being taken into their territory, they can prohibit them by their own act. If they think proper to admit the emigration of slaves, they can say so. Let them be their own judges, and not force upon them a yoke they may not be willing to bear. The people of the Arkansas and of the West are competent judges of their Constitutional rights, and well know how to appreciate their privileges as freemen; and be assured, the further from your metropolis, the greater the enthusiasm for liberty. Slavery is an evil we have long deplored but cannot cure; it was entailed upon us by our ancestors; it was not our original sin, and we cannot, in our present situation, release ourselves from the embarrassment; and, as it is an evil, the more diffusive, the lighter it will be felt, and the wider it is extended the more equal the proportion of inconvenience. We know, we felt yesterday on the Missouri bill, you have the power; you are the majority; but do not bear us down on this question. I trust that gentlemen will exercise on this vote a spirit of conciliation, and give the Southern States an inheritance among their brethren, by suffering such of us as are disposed to become citizens of the Arkansas to take our slave property with us. Then your lands will be sold; your soil will be cultivated; and your country will flourish.

Mr. McLANE, of Delaware, said he regretted very much the discussion of this subject in its present form, with regard to these territories, calculated as it was to arouse feelings which had long slumbered, and which could never be resuscitated without great danger to that humane object we all had in view. He regretted it the more, because it never was without pain that he found himself compelled to assume even the appearance of opposition to the most enthusiastic notion for the abolition of slavery. With such impressions, he should not have taken any part in the discussion, if the question had not been treated by the

gentleman who has just resumed his seat, (Mr. CUSHMAN) as one of liberty and slavery, an idea he utterly disclaimed; and, with a view of preventing any misconception of the course he felt it his duty to take, he would detain the Committee a short time while he explained the reasons by which he was influenced. Mr. McL. said, he would yield to no gentleman in the House, in his love of freedom, or in his abhorrence of slavery in its mildest form. His earliest education, and the habits of his life, were opposed to the holding of slaves, and the encouragement of slavery. At the same time, he would yield to no gentleman in the House in his regard for the Constitution of his country, and for the peace, safety, and preservation of the Union of these States. To these great objects all minor considerations should give way. He would unite with gentlemen in any course within the pale of the Constitution, for the gradual abolition of slavery in the United States. Beyond this, the oath he had taken as a member of the House, forbade him to go. The fixing of a line on the west of the Mississippi, north of which slavery should not be tolerated, had always been with him a favorite policy, and he hoped the day was not distant when upon principles of fair compromise it might constitutionally be effected. He was apprehensive, however, that the present premature attempt, and the feelings it had elicited, would interpose new and almost insuperable obstacles to the attainment of the end.

Mr. McL. said, that gentlemen had lost sight of the real questions under consideration. They had treated the subject as if we were now deliberating upon the expediency of increasing the slavery in the United States from abroad; or, as if we were to decide whether there should or should not be slavery among us. Sir, if this were the question, there is no gentleman on this floor from the North or South who would hesitate in his opinion. He believed there was no quarter of the country in which slavery is more seriously deplored than in the South. But, it was an evil which existed—it had been unfortunately entailed upon us, and it required the united and dispassionate wisdom of the nation to mitigate its horrors and soften its calamities. The farther increase of slavery from abroad had been prohibited by very severe laws, and we were at this session about to pass others, enforcing their provisions, and repairing their defects. The present question regarded merely the disposition of the slaves among us, and that only in a limited extent. Sir, said Mr. McL., what is the question now before the Committee?

France, by the treaty of April, 1803, ceded to the United States the territory of Louisiana—by certain limits, within which are contained the territories of Missouri and Arkansas, and upon the terms therein specified. At the time of this session there were a number of slaves in both places, belonging to the people inhabiting those territories, and from that time, until now, there has been no inhibition of the transportation of slaves to these territories from those States whose municipal regulations permitted their exportation. From these causes, the number has been increas-

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ing daily to the present time, and it is admitted that there is at present a very considerable slave population.

The restrictions which are now proposed, amount, in fact, first, to the emancipation of the present slaves and their issue; and, secondly, to a condition precedent to the admission of these Territories into the Union, as States, that they shall prohibit the introduction of slavery in future from any part of the United States. Under these provisions, persons removing thither with their families, and with the bona fide intention of residing permanently therein, are prohibited from carrying with them this species of property, should they be the owners of any.

I have no doubt that these propositions proceed from the most humane philanthropic motives, and nothing can more gladden the heart than the contemplation of a portion of territory consecrated to freedom, whose soil should never be moistened by the tear of the slave, or degraded by the step of the oppressor or the oppressed. It is a theory which we should be very apt to reduce to practice without even consulting the condition of the present miserable race of slaves in many parts of the United States, if we had the power to do so. But, although Mr. McL. desired the result as sincerely as any man, he was bound to say, that, after a deliberate investigation of the subject, he did not believe that Congress possessed the power to impose the restriction. As it regarded the unfortunate beings now held in slavery in those Territories, he said, he had no more right to provide for their liberation than he had to invade any other species of property whatsoever. Their owners had acquired the legal title to their labor and services, it had become a vested right, and we had no power to disturb it. We had no greater power to take from them their property in these slaves than we had to deprive them of any chattel or other object of ownership. He did not mean to consider the slave as a mere chattel; he viewed him as an ill-fated member of the human race, doomed by a hard and cruel fortune to devote his labor and services to another; he was the subject of the protecting arm of the law, and his life and person were sacred from those outrages which might be committed with impunity upon other articles of property. But, after all, his services and his person belonged to his owner; he was the property of his owner. The man who steals a slave is guilty of felony—this shows him to be property. But, the constitutions of the States in which slavery is tolerated, and the Constitution of the United States, recognise the interest of the owner in his slave as property. The Union of the States is founded upon this principle; and the owner is authorized to reclaim his slave on the ground of property, when he shall have absconded from his service. In many of the States they are liable to be taken in execution and sold for debt, considering them as property. This is the law in the State which I have the honor in part to represent. If we treat them, therefore, as property, and if we even consider it in a limited

sense, that the owner has property in, or right to, the service merely, it is, nevertheless, a right, and we cannot interfere with that right by a mere act of legislation.

What would be said of the Legislature of the State of Delaware, or Maryland, if, by law, they were to declare all the slaves within their territory to be free? Could it be pretended for a moment that they would have any right to do so? The utmost any State has done, has been to say, that, after a certain day, sometime in prospective, the issue of all persons held to slavery shall be free. He would not now discuss this right, though he could not discern how the right to the usufruct of this property could be at all impaired, and, at any rate, in the case alluded to, the owner would be allowed the privilege of removing his slave before the day arrived when the law was to take effect. As it regarded the slaves, at present existing, therefore, we certainly had no power to interfere; and the question was of consequence narrowed down to the simple propositions to prohibit the introduction of slaves in future, and to denying to the inhabitants of those Territories about to become States the right and privilege of deciding for themselves in this particular. It by no means follows that they will not decide to exclude slavery in future; it is quite probable they will find it their interest to do so; but have we the right of taking from them the privilege of judging of their own interest and policy in this respect? To our power to do this, either as regarded the State now to be admitted, or the territory hereafter to become a State, he conscientiously believed the Constitution, and the national compact, to which he would hereafter refer more particularly, opposed an insuperable barrier.

Mr. McL. said he denied that Congress had power to impose any condition upon the admission of a State into the Union impairing its sovereignty. We had a right to require the form and spirit of its Constitution to be Republican, and we had the right to say that we would or would not admit, but we could go no further. We could impose no terms in abridgment of its rights of sovereignty whatsoever, and he protested against the opposite doctrine as leading to the most pernicious consequences. "New States may be admitted by the Congress into this Union." When so admitted they become members of the Union, as the others who have been admitted before them; it is but an addition of another link to the old chain; incurring the same obligations to contribute to the common defence and general welfare, and therefore entitled to the same rights and privileges with the other Confederates. The term "State" imports sovereignty, and the term "State," in relation to the federative system of the United States, imports the same degree of sovereignty as is enjoyed by the States of that Union. It is of the very essence of our Government, that all the States composing the Union should have equal sovereignty. It is the great principle on which the Union reposes—the germ of its duration. How long would this empire

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be held together, composed as it is of many parts united together for a common interest, if all those parts were unequal in their privileges, unequal in their rights, but compelled to make an equal contribution to the support of the others? It would be a motley tribe of sovereign and demi-sovereign States—a congregated mass of incoherent particles—disorder and dismemberment would be the inevitable consequence. Besides, sir, a constitution is the charter containing the principles by which men are to be governed in their persons and property—it is the charter of rights of a free people—in its formation, deliberation and freedom of deliberation are necessary ingredients; but, if we are to make their constitution, or prescribe the terms of it, what becomes of the right of deliberation? We dictate the terms ourselves to suit our views, without regard to their interests or condition. In effect, we agree to admit them to be a State if they will consent to be less than a State—to constitute them a member of the Union, if they will agree to give up the right of judging of the form of government best adapted to their condition. But, sir, what are the limits of this power? If we have the right to impose this condition, what condition have we not a right to impose? The power must be general, or it does not exist. If we have the right to insist upon a stipulation on the part of the new State, not to admit slaves, because it is humane and politic to do so, we would have an equal right to insist upon a stipulation of another kind, if it should also appear to us to be wise and politic; we might prescribe, as a condition, that their right of suffrage should be regulated as we should direct; that their representation should not be as large, in proportion to their population, as other States; that they should not have the benefit of the equality of taxation; that they should surrender to the General Government greater powers, and retain fewer rights, than the other States of the Union had done; or that they should encourage this or that religion, or no religion at all. And, sir, at some future day, when the slaveholding interest, as it has been called, predominates in this body, it might be made a condition, upon the admission of a new State, that slavery should not only be tolerated, but that it should never afterwards be interdicted. Let gentlemen remember, too, that the predominance of this interest is by no means improbable, and that there yet remains a vast, unsettled region, which the future growth of this mighty empire is destined to people and improve. Sir, it is the undoubted right of every people, when admitted to be a State, to become free, sovereign, and independent—free to make their own constitution and laws—to be the judges of their own policy, and free to alter or amend them at pleasure. The moment they are constituted a State, they would have these rights, notwithstanding the condition imposed; and, if they were to present you with a constitution, containing this provision, it would be matter of form only; they could change it immediately afterwards, and abolish the very feature you would desire to retain. The condi-

tion, therefore, would not only be unconstitutional, but useless. We do not possess the political power to enforce it; an attempt to do so would, no doubt, prove abortive as to its object; but it might leave behind it a deep and lasting wound, rankling in the bosom of the State, and finally alienate all their respect for your authority.

But, Mr. Chairman, said Mr. McL., besides the general principles already adverted to, we are not at liberty, as respects this Territory, to consult our power, if we possessed it. We are bound to these people by a compact which forbids us to impose the condition, and we cannot, without a breach of faith, violate that compact. The third article of the treaty of cession provides, that, "The inhabitants of the ceded territory shall be 'incorporated in the union of the United States, 'and admitted as soon as possible, according to 'the principles of the Federal Constitution, to 'the enjoyment of all the rights, advantages and 'immunities of citizens of the United States— 'and, in the meantime, they shall be maintained 'and protected in the free enjoyment of their liberty, property, and the religion they profess."

This article applies both to Missouri and Arkansas; and, in fact, so do all the arguments already used; for, though the law now to be passed refers to Arkansas as a Territory, yet it will shortly become a State, and the principles derivable from its sovereignty would then apply with equal force. By this treaty, then, we have stipulated to protect the inhabitants of this Territory in the enjoyment of their property, of which their slaves unquestionably formed a part, until they can be incorporated in the union of the United States, that is, until their population shall amount to the number always required to authorize the admission of a State, or until Congress shall pass a law authorizing them to form a constitution. As soon as this is the case, they are to be "incorporated in the union of the United States," and admitted, "according to the principles of the Federal Constitution," to the enjoyment of all the rights, advantages, and immunities of "citizens of the United States." What are these "rights, advantages, and immunities," "according to the principles of the Federal Constitution?" That they shall have the right of holding slaves if they please to do so; that they shall form State governments, with the same rights and immunities of all other State governments; that they shall have the same power to make their municipal laws as any other States, and the same advantages as citizens of the United States. As such, as citizens of the United States, the right to possess slaves is unquestionable. It cannot be doubted that all the States possess this right of admitting or excluding slavery within their jurisdiction, as they may think fit. Pennsylvania and New York possess this right; and, though it is their present policy to exclude slavery, no one can doubt that they would have the right to-morrow, if they thought proper to do so, to alter their policy, and permit the introduction of slavery. The right to hold slaves, and, which is more important as it respects their freedom and sovereignty, the right



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to decide whether they will or will not hold them, is as much an immunity and advantage, under our Constitution, as the right to be represented in Congress, or the right to a freedom of religious opinion, or the right to have the slaves accounted a part of their population, in the manner prescribed by the Constitution. We have no more power to impair one than another of these rights.

Sir, we cannot attach too much importance to this treaty, and the rights secured by it. It was the condition of the transfer of the original inhabitants of this Territory, and their possessions, from their former Government to ours. They enjoyed these rights under their old Government, and in the exchange of allegiance they were assured that it should not be lost; that the United States would guaranty them these rights, and protect them in their enjoyment. Strangers as these people were to us and to our institutions, the solemn obligations of the treaty should, on this account, be sacredly observed. We are to win their affections for our Government and Constitution, which can only be done by a sacred regard for their rights and our own obligations. The inhabitants who have since emigrated to this Territory, have gone under the faith of this treaty, relying upon the known good faith of the American Government, for the strict fulfilment of its stipulations. Sir, the prosperity and union of the United States depend upon the honest performance of all the engagements on the part of the Government. The protection to all its members—of the people, of the country—in the enjoyment of their rights, of every description, is the object of the Union. When the disposition to do this effectually ceases, the great chain by which we are connected will cease to bind us. And, sir, if any one or more of the States have a deeper interest in the faithful execution of the principles of our compact, it is the small States, who should be the last to relax the most rigid enforcement of their true spirit and intention.

It does therefore appear to me, Mr. Chairman, said Mr. McL., that we are prevented, both by the principles of our Constitution and the terms of our solemn compact, from imposing this restriction; that, without considering the expediency of the measure, it becomes a conscientious duty (though to some, and to me among others, a painful one) to resist it. And yet, sir, a view of the question of expediency would go very far to mitigate the pain which we might otherwise feel at being unable to gratify our wishes. We have now in the United States a large slave population. It is certain that it cannot be increased by importations from abroad. Their sudden emancipation is utterly impracticable. In their present situation, even a gradual one is almost hopeless. To meliorate their sufferings, and soften the rigors of their servitude, is the most that can be done in many parts of the country. But while they are confined exclusively to the Southern States, owned in large numbers by a single individual, and limited to a single farm, even this change is scarcely to be expected. If, however, they were permitted to be carried by the children

of the Southern planter, when emigrating to the Western country in pursuit of the riches which that fruitful territory holds out to an industrious enterprise—and I would not permit them to be sold by traders, or become the objects of profit—they would by this means become dispersed over a wider field; their condition would necessarily be improved, (for they always thrive and do better when held in small numbers;) and the chances of emancipation would certainly be multiplied in both countries; the number would be less in the South and the West; they would be less formidable to the white population; and in the course of time gradually acquire ease and freedom. In the State from which I have the honor to come, the work of emancipation is rapidly progressing, and, I believe, principally owing to the sparseness of this description of population. Their condition is also better than those further South, from the same cause. There is, however, one view of this part of the subject so nearly allied to the right of Congress to impose the contemplated restriction, that I cannot avoid advert- ing to it. It is said by the gentlemen from the South that this Territory was purchased with the common fund of the nation, to whose benefits all have an equal right; and that, by preventing the Southern planter from carrying his slaves with him when he goes to settle in this Territory, you interdict the emigration from that quarter altogether. Although it is clear that any one State might frame its municipal regulations so as to exclude the introduction of slaves, even by persons removing into it, yet it can scarcely be doubted that the exercise of this right ought to be left to the sound discretion of each State; and we know the policy of different States varies in this particular. In Delaware, persons removing from or into the State are permitted to carry their slaves with them: their introduction and exportation is prohibited only for the purposes of sale. In Pennsylvania it is otherwise. Congress would certainly have no power to interdict the emigration from one State to another; and it is worthy of consideration how far they can do the same by indirect means. I cannot admit the construction of the honorable gentleman from New York (Mr. SPENCER) of the clause of the Constitution which provides that the emigration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited prior to the year 1808. This clause was designed to embrace all classes of people—freemen as well as slaves—coming from abroad. It could not mean to authorize Congress to prohibit the migration from one State to another, because it would conflict with another provision, that citizens of one State shall be entitled to all the privileges of free citizens in another, which secures the right of emigration; and because, if it were designed to vest the power in Congress, it would of necessity, to be available at all, be an exclusive power; but we all see the States constantly exercising it, and they have been in the habit of exercising it ever since the adoption of the Constitution.

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On the whole, Mr. Chairman, said Mr. McL., it seems to me that we have no right to impose this restriction; and that, if we had, it would be useless, impracticable, and unavailing. At the same time, I do not mean to abandon the policy to which I alluded in the commencement of my remarks. I think it but fair that both sections of the Union should be accommodated on this subject, with regard to which so much feeling has been manifested. The same great motives of policy which reconciled and harmonized the jarring and discordant elements of our system, originally, and which enabled the framers of our happy Constitution to compromise the different interests which then prevailed upon this and other subjects, if properly cherished by us, will enable us to achieve similar objects. If we meet upon principles of reciprocity, we cannot fail to do justice to all. It has already been avowed by gentlemen on this floor, from the South and the West, that they will agree upon a line which shall divide the slaveholding from the non-slaveholding States. It is this proposition I am anxious to effect; but I wish to effect it by some compact which shall be binding upon all parties, and all subsequent Legislatures; which cannot be changed, and will not fluctuate with the diversity of feeling and of sentiment to which this Empire in its march must be destined. There is a vast and immense tract of country west of the Mississippi yet to be settled, and intimately connected with the northern section of the Union, upon which this compromise can be effected. Believing as I do that the Constitution and the compact before mentioned will not permit us to extend our policy over the whole, I will be very willing to take as great a part as I can obtain: and in so doing—though I may lament that the humane policy of those who are so anxious to effect this end cannot be more widely diffused—I shall at least enjoy the consciousness of having conformed to the Constitution of the country, and executed the national compacts in good faith.

The motion was advocated by Messrs. TALLMADGE, LIVERMORE, SPENCER, and CUSHMAN; and was opposed by Messrs. CLAY, ROBERTSON, TYLER, HUGH NELSON, STORRS, JOHNSON, of Virginia, BARBOUR, of Virginia, and KINSEY. Several of the gentlemen spoke more than once, and the debate was maintained, with much animation, until near 4 o'clock.

The question was finally taken on the first part of the motion (it having been divided) in the following words:

"That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, of which the party shall have been convicted."

And it was decided in the negative: For the motion 68; against it 80.

The remaining part of the proposition, to declare all the children free after twenty-five years of age, who shall be hereafter born in the Territory, was negatived without a division.

The Committee then proceeded with the bill, and having gone through it, next took up the

## ALABAMA BILL,

For enabling the people of that Territory to form a constitution and State government, and for the admission of the same into the Union on an equal footing with the original States.

Much time was busily employed by the Committee in receiving and disposing of various amendments proposed to the details of this bill, and in considering and deciding on its provisions. Messrs. CROWELL, POINDEXTER, COBB, and others entered into the discussion. The Committee negatived one or two motions to rise, and persevered through the bill; when the Committee rose, and reported both bills to the House, with the amendments made thereto; and at near five o'clock the House adjourned.

THURSDAY, February 18.

A new member, to wit: ROBERT RAYMOND REED, from Georgia, elected to supply the vacancy occasioned by the resignation of John Forsyth, appeared, produced his credentials, was qualified, and took his seat.

Mr. BLOOMFIELD, from the Committee on Revolutionary Pensions, reported a bill, supplementary to "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war," which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. PLEASANTS, from the Committee on Naval Affairs, to which was referred the bill from the Senate, entitled "An act for the relief of John B. Timberlake," reported the same without amendment, and it was ordered to be read a third time to-morrow.

Mr. REED, of Maryland, moved the House to take into consideration the resolution submitted by him on the 23d ultimo, for the erection of a monument to the memory of the late Major General the Baron de Kalb; which motion was negatived.

Mr. HOLMES submitted the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of providing for the first meeting of the next Congress, at an earlier period than the first Monday of December, and that the committee have leave to report by bill.

The resolution was read, and the question being taken to agree thereto, it was determined in the negative.

On motion of Mr. STORRS, the Committee of Claims were directed to inquire into the propriety of so amending the act for the relief of Major Loring Austin and George R. Wells, as that the Secretary of War shall settle the claim of the said Austin, for eight hundred and twenty-seven dollars and ninety-five cents, instead of the sum of six hundred and seven dollars and twenty-six cents, for his expenses incurred in the defence of the suits therein named; and that the amount to be settled as the like claim for expenses by said Wells, be reduced from the sum of six hundred and eighty-seven dollars and four cents to the

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sum of one hundred and seventy-seven dollars and thirty cents.

The bill from the Senate, entitled "An act to regulate the pay of the army when employed on fatigue duty," was read twice, and ordered to be read a third time to-morrow.

Bills from the Senate of the following titles, to wit: An act for the relief of Rees Hill; An act for the relief of Pierre Dennis de la Ronde; An act for the relief of Gabriel Godfroy; An act for the relief of Nathan Ford; An act for the relief of David Henly; An act for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; An act authorizing the purchase of live oak timber for naval purposes; and, An act to authorize William Prout to institute a bill in equity, before the circuit court for the District of Columbia, against the Commissioner of the Public Buildings, and to direct a defence therein; were severally read the first and second time, and referred, the first, second, third, fourth, and fifth, to the Committee of Claims; the sixth, to the Committee on Pensions and Revolutionary Claims; the seventh, to the Committee on Naval Affairs, and the eighth, to the Committee on the Judiciary.

The bill from the Senate, entitled "An act confirming the claim of Alexander Macomb, to a tract of land in the Territory of Michigan," was read the third time, and passed.

#### ARKANSAS TERRITORY.

The House then proceeded to the consideration of the report of the committee on the bill to establish a separate Territorial government in the southern part of the present Missouri Territory.

Mr. TAYLOR moved to amend the same by inserting the following proviso in the bill:

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted.

"And that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

The question on this motion being divided, was first taken on agreeing to the first clause thereof, in the following words:

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted."

And decided in the negative—yeas 70, nays 71, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Folger, Fuller, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Scudder, Seybert, Sher-

wood, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Cook, Crawford, Culbreth, Desha, Earl, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Porter, Quarles, Reed of Georgia, Rhea, Robertson, Sawyer, Settle, Shaw, Simpkins, Slocumb, S. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, and Williams of North Carolina.

So that part of Mr. TAYLOR's motion was decided in the negative.

The question was then taken on the remaining clause of said proposed amendment, in the following words:

"And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years."

And decided in the affirmative—yeas 75, nays 73, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Elliott, Folger, Fuller, Gilbert, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, J. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Seybert, Sherwood, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Wallace, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Abbot, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Cook, Crawford, Cruger, Culbreth, Desha, Earl, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Robertson, Sawyer, Settle, Shaw, Simpkins, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, and Walker of North Carolina.

So that part of Mr. TAYLOR's motion was agreed to.

Mr. WILLIAMS, of North Carolina, then moved

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to reconsider the vote just taken. He had voted with the majority, for the purpose of obtaining for himself the privilege of moving a reconsideration, wishing for a full expression of the opinion of the House on this important question, which could not now be obtained, as many members were out of the House.

The question was taken on reconsidering the vote, and decided in the negative—yeas 77, nays 79, as follows:

**YEAS**—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Desha, Earle, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasant, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina.

**NAYS**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Folger, Fuller, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Seybert, Sherwood, Silebee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams, of New York, and Wilson of Pennsylvania.

The question being then stated on ordering the bill to be engrossed for a third reading—

Mr. **BASSETT**, deeming every effort called for on the part of the minority on this subject, to sustain their Constitutional rights, which he considered to be assailed in the amendment just adopted, moved that the bill be recommitted to a select committee.

Some conversation took place between Messrs. **PINDALL**, **COLSTON**, **EDWARDS**, **SCOTT**, **LOWNDES**, and **MILLS**, as to the course now most expedient to give the bill; in the course of which,

Mr. **LOWNDES** moved that the bill be laid on the table, stating at the same time that, to prevent its being called up, and decided by surprise, he should, at 12 o'clock to-morrow, move for a call of the House, and take up the bill for a decision. This motion prevailed, and

The bill was laid on the table.

The House next took up the amendments reported by the Committee of the Whole to the

bill from the Senate, to authorize a State government in the Territory of Alabama, and for its admission into the Union.

The amendments were concurred in by the House, and, after an ineffectual attempt by Mr. **CROWELL** further to amend one of the sections, were ordered to be engrossed, and, with the bill, read a third time.

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The House then resolved itself into a Committee of the Whole, (Mr. **H. NELSON** in the chair,) on the state of the Union, to whom had been referred the report of the committee appointed to investigate the affairs of the bank, the conditional restrictions subsequently submitted by Mr. **SPENCER**, the resolution absolutely to repeal the charter, submitted by Mr. **JOHNSON**, of Virginia, and that offered by Mr. **TRIMBLE**, to issue a *scire facias*.

The particular subject first in order was the bill reported by the bank committee to enforce the provisions of the act incorporating the bank, and it was accordingly announced by the Chairman.

Mr. **JOHNSON**, of Virginia, observed that, as there were two other propositions before the Committee, the adoption of either of which would supersede the necessity of acting on the bill, he thought it would be the preferable course first to take up for consideration one of those propositions; and he moved that the Committee proceed to consider the resolution moved on the 9th instant by himself, in the following words:

“*Resolved*, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled ‘An act to incorporate the subscribers to the Bank of the United States, passed April 10, 1816.’”

The Committee agreed to take up this resolution, which was read.

Mr. **SPENCER** rose, and stated that he owed it to the civility of Mr. **JOHNSON**, that, in violating the usual custom on such occasions, which allowed the mover of a proposition to commence its discussion, he was sanctioned by the assent of Mr. **JOHNSON**. Mr. **S.** begged leave to remind the Committee that there were three distinct propositions before it: the first was the resolution of the gentleman from Virginia, (Mr. **JOHNSON**), the second was that he had the honor of submitting some days since, directing the issuing a *scire facias*, if the bank did not, on a certain day, express its assent to a modification of its charter; and the third was the resolution of his friend from Kentucky, (Mr. **TRIMBLE**), directing a *scire facias* absolutely and unconditionally. Mr. **S.** observed that he should prefer a modification of the charter, even if it should, by some, be esteemed a new compact, to the total destruction of the bank, with the views and apprehensions he entertained at present of the consequences of such a measure. If the Committee should reach the resolution he had submitted, it was his intention to modify it, in some respects, particularly to omit the third proposition, which proposed giving the President the power of removing any

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director, and he should in other respects amend his propositions, as time and reflection had enabled him, he thought, to improve them. And, if the Committee should reach the bill reported by the select committee, Mr. S. observed, he should, with the approbation of the gentlemen composing that committee, submit an amendment which would require the stockholders, constituting an attorney to vote for them, to swear to their ownership of the stock. Mr. S. thought it proper to apprise the Committee of these intentions, that the subject might be fairly considered. For the reason before stated, Mr. S. said, he should at present vote against the resolution for the repeal of the charter, and against that directing the issuing of a scire facias; but, if he should not succeed in at least the plan of the propositions he had submitted, although he should not be tenacious of each particular one, he should feel it his duty to vote for a scire facias unconditionally.

Mr. S. proceeded to make explanations of some expressions in the report. The remark, that "the principal business of the bank certainly has been to discount on notes secured by a pledge of stock," was liable to misconception. The expression used does not convey the meaning of the committee; it was either an inadvertence in the draught, or an error in copying; he believed the expression originally was, "a principal part of the business," &c., and it was intended to confine the remark to the business of the bank at Philadelphia, which was sometimes loosely designated as *the bank*. With respect to the bank and all its offices, it would appear that about one-fourth had uniformly been discounted on pledged stock; while at Philadelphia the discounts on stock had frequently very nearly equalled those on personal security. With regard to the expression, in the close of the report, that, "whatever differences of opinion can exist among them (the committee) as to the result and inferences to be drawn from the facts stated, they unanimously concur in giving to the preceding statements of facts, and 'abstracts of documents their sanction.'" Mr. S. observed that he thought the expression sufficiently precise, but he understood it was liable to a misconception. When inferences were mingled with facts, the unanimous sanction did not extend to these inferences; but that, in all cases wherever a fact was definitely stated, the committee meant to sanction it. Mr. S. remarked, that the report had been prepared at a time of severe indisposition, and when the committee had been fatigued and almost exhausted with labor, and he should not be surprised if many erroneous expressions were found in it.

Mr. JOHNSON, of Virginia, rose in support of his motion. The circumstances, said he, by which we are now surrounded, are different, very different, indeed, from those by which we were cheered at the commencement of the present session of Congress. All then was peace, tranquillity, harmony, and prosperity. The President of the United States gave to this House, and to the nation, a picture of our national felicity, truly interesting and flattering. The people of the

United States were represented as more prosperous and happy than at any former period of their existence; as infinitely more prosperous and happy, than any other people on the face of the globe. What, now, is our condition? Surrounded by one universal gloom. We are met by the tears of the widow and the orphan. Pictures of highly wrought suffering, of misery, and of distress, are crowded upon us. Our sympathies are assailed. We are pointed to the Bank of the United States, and gravely told, that destroy but this corporation, and you dissolve the charm which secures to the people of this nation prosperity and happiness. And is it possible, said Mr. J., that the ten millions of people in this country depend for their prosperity, their happiness, and their repose, on the conduct of the directors of this bank? This corporation, which by its very first act put our authority at defiance, by the first step which it took, violated the charter which created it. Sir, I should consider this country in the most deplorable, the most melancholy condition, if the proposition be true, that by the act to incorporate the subscribers to this bank, which gives them exclusive privileges for twenty years, we enable them to direct the destinies of this nation, and make it happy or miserable as they shall choose. And what, he asked, had been the course of conduct pursued by a majority of the directors? Had they pursued that course which the public interests pointed out, or had they been engaged in practising fraud and corruption; in the prostration of all those principles which he considered as most interesting and most valuable to this country? I will not presume, said Mr. J., that any member of this House has taken less pains than I have done, in the examination of the facts disclosed by the report of the select committee appointed to investigate the conduct of the directors of the Bank of the United States. Has any gentleman, he continued, read the affidavits of Dennis A. Smith and James W. McCulloh, who entertains a doubt as to the facts established by their testimony? What does their evidence establish? Not that the public interest, or that the public good has been the object of a majority of the directors of this institution, but that the interest of a few large favored stockholders has been the constant and steady object of their pursuit. What were the means used to obtain the complete control of this bank? The charter was violated; shares were split up and taken in the names of individuals not interested in them, to enable the persons really owning them to give as proxies a much larger number of votes than, according to the fundamental rules of the charter, they were authorized to give, on the choice of directors, in order to obtain an undue preponderance at the board. This was known to the judges of the election. What was the next course adopted to secure completely the interest of this favored class? I know not, said Mr. J., how to speak of it, or of individuals who are not present to respond to me. In what terms shall I describe the conduct of the president of the bank? There was a transfer to him of \$15,000, not in stock;

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both witnesses concur in stating that the stock was not transferred to him; that he paid nothing for it; that it was a transfer of money, of profit made on stock purchased and held by a few interested individuals, large stockholders, who sold 1,000 shares of the stock held by them for a profit of \$15,000, and paid to Mr. Jones, in money, the amount of this speculation. Shall we call this a *douceur*, a present, or shall we give it a harsher name? These moneyed speculators, said Mr. J., who have an eagle eye to their interest, and pursue it with an appetite as keen as death, are not in the habit of making presents to this amount without some adequate and interested view. Having pursued the course necessary to secure to them a convenient weight and influence in the direction, it became necessary to approach the president, to touch his pulse, to soften his heart, and fix him securely in their interest. In what light shall these honorable stockholders be viewed? Shall I be permitted to apply to them the doctrine held on a late interesting and important subject—that the instigator to bad actions is worse than the actor; that he who places in the hands of the assassin the dagger, to be plunged into the bosom of innocence, is worse than the murderer? And what has been the consequence of all this art, this management? A few individuals have been enriched at the expense of the innocent and the honest. This shaving institution—has it really, said Mr. J., any claim on the justice or the liberality of this House, or of this nation? No; justice hides her face; she wishes not to look at the black catalogue of iniquities which this institution presents; humanity would gladly drop the tear of oblivion on the sickening scene. Mr. J. said he could not speak of this subject in the way it deserved, but would proceed as well as he was able.

Has this corporation, said Mr. J., by all the acts of which it has been guilty, by the division of votes, by the evasion of the second specie instalment, by the judges of the first and second elections allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for others, in whose names shares then stood—when those judges, the directors, and officers of the bank perfectly well knew that the shares really belonged to the persons offering to vote upon them as attorneys—*forfeited its charter?* If the charter was forfeited, what, he asked, was the remedy which it was proper to apply? What the course proper for this House to pursue? Here a difficulty presented itself. The Congress of the United States, as he contended, without authority, and contrary to the Constitution, had created this corporation, which could not be tested by the application of the principle of any known system of laws in the world. Shall we, said Mr. J., refer this charter to the standard of the civil or the common law? The Roman law is represented to be the source of incorporation—according to which law, a voluntary association of individuals, at any time, or for any purpose, was capable of producing it. In England, whence our notions of it are immediately

borrowed, it seems part of the Executive authority. The King, by his letters patent, creates corporations. Shall we, then, decide this question by the Roman or by the common law? I ask, said Mr. J., if either of these codes be in force in the United States? If he were not deceived by his memory, the Supreme Court had solemnly decided that the common law of England was not in force in the United States. He understood the Supreme Court as having settled that question; but, if not settled, Mr. J. said he should still contend, and felt himself prepared to prove, that the common law of England was not the law of the United States. The first settlers of this country, Mr. J. said, fled from the civil and religious persecutions of England, of Europe; they sought here that independence and happiness which had been denied them in the countries which gave them birth. In this new world, on this expanded continent, they found themselves as free from the shackles and despotic systems of Europe, as the winds and the waves which wafted them hither. They were capable of adopting any system of laws which they thought proper to select. With regret, he had heard it said in this House, that our ancestors brought with them the principles of the common law; that it was their birthright and inheritance—a sort of heirloom. This he denied, and contended that they came here free from all municipal laws but such as they chose to adopt. True, many principles of the common law were adopted by the first settlers, from choice, because they were best known to them. This was natural. But what was the course adopted after the Revolution, which surely dissolved all the charms of this boasted system of British jurisprudence, and left the people of the United States, as a nation, free to choose such system of law as they pleased? Look at all the legislation of the States after the Revolution, and after their respective constitutions went into operation; they adopted for their own municipal regulations such portions of the common law as were applicable to their situation, not contrary to their bills of rights and constitutions, and not local to the kingdom of Great Britain. Many years after the State governments had been in successful operation, when the principles of liberty and free government were well known and clearly and distinctly understood by the people of this country, the present Constitution of the United States was adopted. The people of the United States, by this instrument, which is an original, social, written compact, freely and voluntarily entered into by the contracting parties, in which all the powers of the Government are expressly enumerated and clearly defined, which had for its object the union and harmony of the States, their security against domestic disquiet and foreign aggression and danger, to regulate the intercourse of the States with each other, and with foreign nations, adopted for national and general objects, and not with a view to local and municipal regulations. Have the United States or the legislative power of the United States, Mr. J. asked, by any act, declared the principles of

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the common law to be in force in the United States? They are certainly not recognised by the Constitution of the United States. The principles of that law, he said, were not suited to such a Government as ours. They were generally of a character strictly municipal; they had never been adopted by legislative enactment; they had never been adopted by the only branch of the Government capable of giving law to the people of this country, as a nation—the Congress of the United States. We therefore, said Mr. J., have neither the common law nor the civil law, by which to test this charter.

But, sir, said Mr. J., we have the charter before us. Let us apply the fundamental rules of the charter, under the guidance of reason and common sense, to the conduct of this corporation. Those rules which, at its creation, were imposed on it, to govern and direct its course, without a due observance and obedience to which rules it must cease to exist. This charter has been violated; and the question now occurs, has Congress the power, the moral power, to repeal the charter, or must the question be submitted to the judiciary? Is the provision in the act of incorporation which provides the remedy by *scire facias* for breaches of the charter obligatory on the Congress of the United States? Cannot the power which created this corporation dissolve it? Can the faith of this nation be pledged by an act which is contrary to the Constitution of the country? Can this corporation surrender its charter? To whom would the surrender be made? Would it be to a member of the judiciary, or to a court, in session? If so, to which member, or to which of the Federal courts? Or would the surrender be made to the Congress of the United States? He humbly conceived that the corporation had the right to surrender its charter; that the surrender, if made, must be to the power by which it was created. He presumed that it would be conceded to him, that the individual members composing the corporation had the power and the right to dissolve it. Put the case, that they failed or refused to elect directors, by what process could they be coerced or compelled to perform this duty? Some member had suggested that a mandamus might be awarded. What resort to a mandamus against an individual? Who would sue out the process? Such a process was sometimes resorted to by a superior court to compel an inferior court to discharge its duty. But it was the first time that he had heard of suing out a mandamus against an individual. If the members of this corporation neglected or refused to appoint directors, it would, as a necessary consequence, be dissolved. Mr. J. asked if this institution—if its members—had power over its duration and legal existence which Congress had not? Had they created a power greater than the creator? Had not the power which spoke this charter into existence also the power to destroy it? Mr. J. denied that a precedent Legislature could, by any act, bind its successors; contended that it was at all times competent for a legislative body to repeal the

acts of its predecessors. That this Congress, that this House, would always be actuated by the strictest regard to propriety—to the immutable principles of justice—was fair, was proper to presume. But that it ought never to be restrained from repealing any of its own acts, or those of its predecessors, when the welfare and happiness of the people required such repeal; or from dissolving any corporation, or supposed corporation, which claimed to exist by some law of the United States, when that very law had been grossly and palpably violated. He considered the right clear and indisputable. Is it expedient, under existing circumstances, to exercise this right? He considered the policy equally clear and indisputable. He understood the bank was now able to pay all its debts, and to meet all its engagements. The claims of innocent stockholders can now be secured; they can now be protected from injury, if the corporation be immediately dissolved. Permit it to go on, judging from its past conduct, no man can tell what will be the result. If, in the three first years of its existence, it be convicted of such misuse and abuse of its powers; if, during that period, the whole tenor of its conduct be marked with acts of the most glaring impropriety; and if it be permitted to escape with impunity, who can estimate the consequences? Will it not hereafter put the power of this House at defiance? What reliance could be placed on the directors of the Government? From the report of the committee of investigation, it would be found that they, or a portion of them, had been guilty of as many violations of their duty as the private directors, and characterized by the same culpable regard for their individual interests, at the expense of the institution, and of the small and innocent stockholders. A due regard for the interests of the small and innocent stockholders would induce him to give his vote for the repeal of the charter. Let the corporation continue, and the interests of this class will still be sacrificed to the interests and views of the large and influential stockholders. He would, then, secure the innocent by dissolving the charter; and they would, moreover, Mr. J. contended, have another security; for he held it a clear principle, that the president and directors were responsible, in their private fortunes, for all their iniquitous and fraudulent acts, to those who had sustained injury; that the injured party had a clear remedy. These directors had undertaken to negotiate for specie in Europe. The necessity to resort to this mode of procuring the specie part of the capital, was the result of mismanagement—of abuse of their powers—of a violation of their charter—of an inordinate thirst for wealth—of an ill-judged desire to put their machine into motion. By evading the payment on the part of the favored stockholders of the second specie instalment, this negotiation was rendered necessary. How was this business conducted? On principles of equity and justice? No, sir. An agent was sent to Europe to purchase specie; the contract was negotiated, and the specie delivered in this country, at an expense

to the bank of \$525,297 38; an expense which resulted from mismanagement, and a fraudulent and culpable system of favoritism, extended to the large stockholders. Mr. J. said, as the large stockholders received indulgences and benefits, which made the expenditure of this sum necessary, it ought to have fallen exclusively on them, and not equally on the innocent stockholders, and the Government, which appears to have been the fact. And this act rendered necessary by a total disregard of the fundamental articles of the charter, and for the purposes of individual speculation, was one for which the directors claimed credit from the nation. Those humane gentlemen, said Mr. J., who have such claims on our justice; those artful gentlemen who can divide thirty shares so ingeniously as to enable them to give almost as many thousand votes; who can now weep for the widow and the orphan, who will be ruined by the dissolution of this charter; who had hearts as hard as stone when in pursuit of their favorite object, their idol, and their god—money; who, to obtain that desired and loved object, wealth, and its concomitants, power and influence, would have feasted on the blood, and battered on the bones of those for whom they now affect so much sympathy and sorrow; those disinterested, compassionate, highminded, honorable gentlemen, who could soften their president by a *douceur* of \$15,000; those gentlemen, who, we are told, have strong claims on the forbearance of this House. Mr. J. regretted that this picture, this horrid picture, would be seen not only in this country, but would necessarily be presented, in all its deformity, to the gaze of the world. It would attract the eyes of all nations to the United States. That country which heretofore had claimed, and received, so much credit for the purity of its character; that country which we have been told is still so prosperous and so happy, in the forty-third year of its age, to have produced a monster of fraud and corruption without parallel. Even England, bad as he believed her, could not furnish an institution more distinguished for adroitness in swindling and fraud than this corporation. Sir, all Europe will point the steady finger of scorn at this grand shaving shop.

Mr. J. called the attention of the Committee to the struggle which was made to recharter the old Bank of the United States, and the arguments which were used on that occasion. He adverted to the feelings which were imparted to the General Assembly of Virginia, when a letter was received from Mr. Giles, a Senator from that State, on the subject of his instructions to vote against the renewal of the charter of the bank. Mr. J. said he opposed the reading of that letter; but curiosity prevailed—it was read. It seemed to him, Mr. J. said, that all acts were referred to the standard of motive. All actions appeared to be traced to some motive of interest or design. Instead of looking to the one single and grand motive which ought to be presumed to animate all in this House, the ardent and pure desire to promote the public interest and happiness,

there appeared to be an effort to attribute motives much less noble, honorable, and disinterested. He could not but believe that those who sought with so much solicitude to establish impure motives, were beguiled and led astray, by glancing at the mirror which reflected the motives of their own bosoms.

Mr. J. said, he disliked to speak of himself: he would, however, to avoid the imputation of any interested or undue influence, take this occasion to remark, that he had, on all occasions, voted against the incorporation of banks; that he voted against the charter of the Farmers' Bank of Virginia—the extension of the charter of the Old Bank of Virginia; that he was not a stockholder, nor ever had been a stockholder, in any; that he had never applied for, nor received, any species of accommodation from any bank whatever.

During the late war, at a period when the Treasury was empty; when the energy of the nation appeared to be paralyzed; when ruin seemed to stare us in the face, we were told, he said, that we must have a National Bank; that without it the war could not be prosecuted—the soldiers could not be fed, or clothed, or paid, to fight the battles of the country. Great efforts were made; a bank charter was successfully carried through both Houses of Congress, and presented to the President of the United States, for his signature. Surrounded, as he was, by all the gloomy circumstances of the day, Mr. Madison returned the charter, on the express ground that it did not provide sufficiently for the interest of the Government. The Constitutional difficulties were removed from his mind; the subject had been adjudicated, and put to rest. What was the consequence? Some Republican gentlemen, Mr. J. said, now within the sound of his voice, must recollect the course pursued. A meeting was had by the Republican members of Congress, in order to agree upon principles, to determine upon a charter which would be acceptable to the then President of the United States. Before this compromise of opinion could take place; before a new and unexceptionable charter could be manufactured, the messenger of peace came, with healing in his wings. Nothing more was done at that session of Congress, on the subject. The nation's joy was testified, at the seat of Government, by illuminations and bonfires. The solemn farce performed, of illuminating the monuments of our disgrace, the evidences of the vandalism and barbarism of our enemy. Every window in the city was gaily illuminated, and the ruin and desolation of the Capitol and other public buildings and edifices rendered more strikingly conspicuous by this extravagant evidence of joy at the return of a peace which the prowess of the nation had achieved.

But, Mr. Madison's objections produced at the succeeding Congress another experiment, which proved more fortunate, not for the nation, but for the interests of speculators. The charter to the existing bank was obtained. Nothing, Mr. J. said, did he more sincerely regret than that Mr. Madison should have put his signature to



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such an act. That honest, that respectable, enlightened, and patriotic statesman, who had so long and so faithfully served his country, had, in this single instance, cast a shade on the hitherto bright and unclouded orbit, in which he had moved. Mr. J. said, it was extremely painful to him to refer to any act of that distinguished statesman, who had retired to private life, in any other terms than those of respect and approbation. Nor would he on this occasion have done so, except from a sense of duty; and with a view to the history of the banks of the United States, which he felt himself bound to give.

When the question first arose in this country, continued Mr. J., as to the powers of Congress to incorporate a National Bank, the wisest men in the nation differed in opinion on the Constitutional powers of the Government to create such corporation. General Washington himself, as appeared from the history of that day, labored under great difficulty—he called for the opinions of his secretaries, and doubted, and doubted, until the time had almost elapsed, which would have made the act of incorporation a law, without his signature. The difficulties and doubts which at that time surrounded the mind of the Chief Magistrate, produced a most elaborate and able investigation into the Constitutional powers of Congress to create corporations. We have not only the opinions, but the testimony of two of the most enlightened men of any age or country, Mr. Jefferson and Mr. Madison, on the Constitutional question, whether Congress has the power to incorporate a National Bank? Mr. Jefferson's opinion and testimony will be found in the written opinion given by him to General Washington on the question. In the year 1791, Mr. Madison, in a very eloquent speech delivered in Congress, stated the following important fact, speaking of the power to incorporate a bank. "This power was proposed to be vested in Congress, in the original plan reported by the committee of the convention, among the enumeration of powers which now form the 8th section of the 1st article, but that, after three days ardent debate, on the special subject, in that body, the power was rejected and stricken out, upon the principle that it was a power improper to be vested in the General Government." Mr. J. said, that he was aware that an instrument of writing might convey more or less power than was intended by the contracting parties—that this result might be produced from the want of sufficient accuracy and precision in the terms used.

Such a charge, he presumed, could scarcely exist in reference to the Constitution of the United States. He denied that by a fair and clear deduction; that by any rational construction, this power could be derived from the Constitution. It did not belong to any of the enumerated powers. Nor was it fairly referable to any of the implied or resulting powers of the Government. He did not mean to enter on the discussion of the Constitutional powers of the Congress of the United States to create corporations, or to

charter a National Bank. But, he demanded of those who held the affirmative proposition to establish, by clear and indisputable reasoning, that the bank had been constitutionally established—or, that the faith of the Government could be pledged by an act not sanctioned by the Constitution. The act of incorporation, he said, was a dead letter; it was worse—it was an act of usurpation. It was idle to talk of the faith of the Government being pledged to sustain it.

How, then, Mr. J. asked, did the question present itself? The Supreme Court, as he had before remarked, had declared the common law not to be the law of the United States; and, consequently, in making the inquiry, whether forfeiture had been incurred by this corporation of its charter, the question could not be tested or settled by the application of the principles of this system of law. According to the settled and well established principles of the common law, settled by frequent adjudications, no doubt can exist that the charter of the Bank of the United States is forfeited. In support of this doctrine, he begged leave to refer to the case of the King against the city of London, and the cases there cited. And, said Mr. J., after the disclosures which have been made, will the House permit this violated act to remain on the Statute Book a disgrace to the nation? Are we, said he, not to support the Constitution; and can the immaculate and patriotic gamblers in this bank induce us, for a single moment, to prolong an act which violates this instrument?

Mr. J. said, if this proposition to repeal the charter should be negatived, he could not vote for the bill reported by the bank committee, as he should, by so doing, recognise the legal existence of the bank. This, according to his most solemn convictions, would amount to a violation of his oath. He trusted there would be neither difficulty nor hesitation in putting down this corporation. He hoped in God his country would not present the melancholy, the degraded picture, sketched by the masterhand of Byron, when surrounded by the gloom resulting from a view of the glorious decay and splendid ruins of Rome.

"There is the moral of all human tales,

"Tis but the same rehearsal of the past;

First freedom, and then glory—when that fails,  
Wealth, vice, corruption—barbarism at last."

We had enjoyed the blessings of freedom. We had had a reasonable share of glory. Our arms had been triumphant on the land and on the ocean. All seemed animated, now, by the desire to accumulate wealth. He hoped the nation would still pause, and reflect, seriously reflect, on the consequences of changing the pursuit of a national character, distinguished by liberality, magnanimity, and honor, for the sordid pursuit of wealth, at the expense of vice and corruption. Mr. J. said, he had hoped much from the fair destinies of this nation, but those would be marred and destroyed, if a miserable corporation could hold the Government in check, influence its operations, plunge it into corruption, or cover it with vice and shame whenever it should please.

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Mr. PINDALL, of Virginia, took the floor. He was confident, he said, that the House, as well as himself, was willing to acknowledge its gratitude to the honorable members of the select committee, who, by a laborious and deep investigation of the affairs of the National Bank, had been enabled to present to our view an elaborate statement of facts, not less interesting to the nation than important with regard to their consequences. But, whilst he remained sensible of the exalted merit of the committee, he would claim the privilege of judging for himself, by deducing his own conclusions from the facts contained in the report, and, in so doing, he would frankly acknowledge that the report sought to inculcate a principle to which he was unable to subscribe. The committee had asserted, that there might be many violations of the bank charter, which should not be considered as producing a forfeiture. Against the assumption of such principle, Mr. P. would take leave to enter his decided protest. The Legislature had enacted certain fundamental rules, to which this bank corporation was bound to conform, and, by infracting those fundamental canons, the corporation violated its charter, and thereby incurred a forfeiture of that charter. He was not prepared to say, that this House would always feel itself disposed to enforce a forfeiture for every violation of the charter, as a departure from the terms of the law might possibly be imagined, under circumstances which would induce the Legislature to commiserate the institution, or excuse the error, but he would contend, that every palpable violation of the fundamental principles of the institution would subject it to the discretion and mercy of the National Legislature (the author of its existence) which would decide on the justice and policy of enforcing the forfeiture, or excusing this offence. The select committee had supposed that some violations of the charter would induce its forfeiture, whilst other violations would not produce that effect, and, among the former, the committee had classed those violations which defeated the very objects of the institution, as expressed in the charter itself. But, it was evident, this sort of indefinite classification could afford no aid to our investigation. There was no preamble to the act of incorporation expressive of the objects of the institution. One gentleman would see, in one given violation of charter, a prostration of the objects of the institution, whilst other gentlemen, attaching less magnitude to the same crime, would look in a different avenue to find what are called the objects of the institution, and, in that predicament of vexation and perplexity, it would be seen that neither the Legislature nor the honorable select committee had been kind enough to furnish a thermometer for the true admeasurement of the objects of the incorporation. In relation, however, to one circumstance, there could arise no difficulty of opinion. Certain principles were prescribed for the control and government of the corporation, which had been dignified by the Legislature as fundamental rules and articles, and it would be equally manifest that, whensoever the corporation transcended those

fundamentals, it departed from the orbit within which Congress had confined its operations.

I will now, (said Mr. P.) pray the House to accompany me, in the review of another part of the report, where will be found a feature, which cannot fail to excite in the House a degree of regret and disappointment. The report manifests that the honorable committee have deemed themselves clothed with authority to pass an unequalled censure upon the conduct of the State banks. Gentlemen are now invited to show the power of the committee to investigate the concerns or proceedings of State banks, with which it would seem the violation or non-violation of the charter of the United States Bank had no connexion. With the most profound respect for the motives and talents of the committee, I must assume the liberty of declaring that I consider this public and official condemnation of the respectable banks, which pervade the respective States, as ill-timed and unjust—as produced by the statements, and probably partial complaints of their formidable rival, who was fully heard by the committee, whilst the many respectable State institutions have incurred a heavy and cruel censure, without being summoned, or having any opportunity, to be heard in their defence. This subject, however, has been presented to us by the report, and must, therefore, demand the attention which seems due to its importance. I am sensible that the House would not, at this late day, relish a discussion of the remote and complicated causes which led the way to a suspension of specie payments by the State banks, during the late war; topics that have given birth to arguments, or rather disputes, by which public patience has been long since exhausted. Yet, there were some circumstances connected with the suspension of bank payments, with regard to which there could exist no difference of opinion. It is deemed proper to remind the House of these circumstances, the uncertainty of which will beguile us into no disputation, although their remembrance may enable us to account, in some measure, for our present embarrassment. It is certain, that, previous to the close of the late war, the disorder of the currency distressed the community, and imposed an evil not only on every quarter of the country, but afflicted almost every operation of trade. It is equally certain that the superabundant issue of bills by the moneyed corporations of the States, coeval with, and after the suspension of specie payments, produced the disorder in the state of the currency. If it be charged, that the State banks, in their over issues of paper, were prompted by an unwarrantable thirst of gain, I would not feel myself authorized to make a total denial of the charge, nor find it necessary to contend, that those banks were exempt from the prevalent appetite which has since so remarkably characterized the Bank of the United States, and which seems more or less to guide the deliberations of all corporations of trade. In truth, it may be affirmed that the spirit which instigated or enticed the commercial classes of our community to overtrade their means, insinuated itself into the court-

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ing rooms of the banks, and prompted them, also, to exertions scarcely compatible with the maxims of prudence. But, sir, can this House, as a branch of the national Government, criticise the transgressions of the banks without a melancholy pang, in reflecting that this Government has also participated in those transgressions, or at least promoted them, by the extraordinary credit which is solicited and almost demanded, from those institutions. The eighty millions of dollars, which the Government found itself under the necessity of borrowing, from the year 1812 to 1815, inclusive, were drawn from these corporations, in bank notes and bank credits. The Government, engaged in the prosecution of a just war, found it absolutely necessary to raise, for its current service, enormous sums of money, and, at the same time, saw the utter impossibility of acquiring the funds, without the aid of the State banks. It, therefore, resorted to means of temptation adapted to conquer the most stubborn prudence on the part of the banks. Not only ordinary interest and premiums of bargain were offered, but acts were passed authorizing the disbursement of bounties or bribes to brokers and agents, who would, on the part of Government, persuade the banks to advance their paper and credit. Even the wholesome restraints in the charters of the banks of the District of Columbia, those prudent limitations of their discretion, previously imposed by the National Government itself, (their legitimate guardian,) were loosened, and they too were authorized, invited and enticed, to issue paper for Government loans. The ardent solicitude of Government, that the banks should stretch their credit to its utmost extension; the appointment of several of those banks, as the receivers and depositories of the public revenue; an invitation to nearly all the local banks, to open their vaults to receive the public taxes, and proceeds of the sales of public lands most contiguous to them, (which seemed to imply a confidence on the part of Government, indicating its disposition to support these banks with its powers and vast resources)—all these considerations, I say, had their due weight in influencing the liberality of the banks, who already perceived the promotion of their own interests in accepting the contracts for the heavy loans, so essential to the operations of the country.

Our Government, then, as well as the speculating merchant, contributed to produce the evil of a disordered and depreciated currency. But, in April, 1816, when the act to incorporate the United States Bank, passed, this disease in the national currency had begun to work its own cure; in proof of which, I must take leave to remind gentlemen of some of the events of that epoch. It will not be forgotten, that, at and previous to April, 1816, several of the banks had ceased to discount for new customers, and could with great difficulty be prevailed on to renew the outstanding loans then existing, whilst other banks had commenced a gradual curtailment of their loans, with a view to meet the period of a resumption of specie payments. The circumstance of the

great depreciation of some bank bills, and the inconsiderable depreciation, or par value, of others, mentioned in the report of the select committee, indicated the decline of credulity with respect to the paper system, as well as a public relish of discrimination between banks of solid and spurious capitals. The State Legislatures, also, the authors and guardians of the local banks, had entered upon an exertion of their proper and visitatorial powers over these institutions, and were hastening the return of specie payments, by compelling the banks immediately, or at fixed periods, to redeem their paper in specie. At this juncture of convalescence of the paper currency, when the danger and dread of war was gone, and when our Government found it unnecessary to importune the State banks for further loans, the projectors of the United States Bank urged the National Government to call into existence a mighty corporation, to overawe and correct the local institutions, that had dealt themselves almost out of breath in supporting the Government in times of peril and adversity. It was in April, 1816, when these local banks were contemplating, and the public anticipating, the restoration of the age of hard money, and only hesitated on the deficiency of the quantity of specie in the country, that the General Government determined to cure a disordered currency by the establishment of a national bank; or, in other words, to create an artificial demand in the market for seven millions of dollars, specie, which, although done with the ostensible view of inducing the local banks to resume specie payments, would of necessity protract that event, by increasing the danger of opening their vaults to the prodigious demand for dollars to fill the coffers of the new bank. It is almost unnecessary to remark, that the policy thus adopted by the General Government produced an alarm which discouraged the payment of specie by the State banks. Indeed, some of the State Legislatures, that had been laudably engaged in the correction of their own banks, that had shut their ears against all excuses, and marked the time for the redemption of paper by gold and silver, now relaxed their rules of severity, so as to permit their home banks to escape as they could from the speculators and brokers of the new project.

Charity, and every amiable sentiment, predispose us to the impression, that this was only a mistaken policy of the General Government, whose object might have been to assist the local banks to resume specie payments, and hence reform the currency; but the dissimilar or rather opposite policy proposed by the Executive Government when the great bank was not exempt from apprehensions of being placed somewhat in the condition of the local institutions, removes the idea of friendship to them. For this, I refer gentlemen to the letter of the Secretary of the Treasury to the United States Bank, of the 29th November, 1816, at a time when the institution feared to discount for those who were indebted to the Treasury for duties, lest it might, in consequence of the scarcity of specie, be placed in the perilous situation of other banks. The Sec-

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retary proposed to obviate the difficulty by the issue of Treasury notes, to be loaned by the bank, and to be made receivable in the payment of duties. Hence it would seem that State banks were to be cured of their inability, and compelled to pay specie, by placing the speculators, in quest of seven millions of cash, at their counters, ready to grab every dollar that found its way from their vaults; whilst the United States Bank, the great favorite of Government, must be aided, through its debility, by flooding the country with such an abundance of paper money from the Treasury, as would render the disbursement of its gold or silver unnecessary. Here it should be remarked, that although the stock-mongers, who beset this Government, continually sung of the inequalities of exchange, of the depreciation of local bank notes, and the incurable avarice of State banks, yet the bills of many of the banks retained such a credit and public confidence, as to devolve the necessity on the Executive, in seeking to frighten them into certain measures, to threaten the open opposition of the Government, with all its revenue resources, to impair, if possible, the public confidence of their stability. Let gentlemen who desire proof of this attentively read the Treasury letter, of the 29th November, 1816.

The act to incorporate the United States Bank passed on the 10th of April, 1816, and, only seventeen days thereafter, Congress adopted the resolution requiring, that, from the 20th of the ensuing February, the revenue of the United States should be paid in coin, or in United States Bank notes, (a bank which it was then not certain would ever exist,) or in the paper of such banks as redeemed their bills in specie. The avowed object of this resolution was, not only to coerce the payment of specie by the State banks, but to limit the very day and hour of that event; and this, too, at a time when the State banks and the State governments were pursuing a course to reform the currency, by the only gradual and sure means which were compatible as well with the interests of the public as the security of the banks. This resolution seems to have been wanted by the Executive, as an instrument of hostility against State banks, to be used or not, as future convenience might require, and the day of cash payments was placed subsequent to the ensuing session of Congress, that it might be modified or repealed if the capital of the United States Bank should not be subscribed, or in case any mishap should befall that institution: hence we have seen that (on the subject of the resolution) a dead silence reigned in the Treasury, until after the following midsummer. The books of subscription to the stock of the great bank were opened on the first Monday of July; and about the time that intelligence reached the seat of Government that the stock of the National Bank was all subscribed, and when the Executive believed itself no longer in need of the assistance of the local banks, about this time, I say, (22d July, 1816,) the Treasury made its official communication to the banks—a communication carrying to every auditory a distinct and well understood meaning, in addition

to everything expressed on its face. Yes; we find the communication consisting of propositions, &c., but all men could read the sense, not expressed, thus: that it would be in vain to petition Congress to postpone the day of promptitude beyond the 20th of February, in order to stay the drain of dollars from the State banks, to fill the vaults of their formidable rival; for that the Executive power, which had theretofore been irresistible, would be hostile to every such attempt.

The State banks had in view to postpone their specie payments until after all the specie instalments of the capital of the National Bank should be paid in; and the public, as well as the banks, entertained the suspicion, of the subscribers of the United States Bank lying in wait for their specie. But, in the Fall of 1816, the men of the National Bank, who daily became more familiar with the dexterous speculations so common in corporations of trade and exclusive rights, found themselves destitute of the power or disposition to pay either the funded debt or a specie part of the second instalment; on which they, by intrigue among themselves, prompt the Executive to adopt such measures as would impel the local banks to bring their public debt suddenly into market, so as to enable the stockjobbers to acquire it at a reduced price. Let gentlemen again examine the Treasury letter of 29th November, 1816, and acknowledge my conjecture correct, or account for the conduct of the Executive.

That letter, in speaking of the ability of the banks to return to specie payment, by a reduction of their circulating paper, remarks, that "the requisite reduction of the circulating paper may be effected by the State banks, either by curtailing their discounts or by the sale of the public debt, of which they are known to be the holders." And that "curtailment of discounts has been the only process resorted to by them, where any effort has been made to prepare for the resumption of specie payments." The letter enters upon arguments to show that the banks would sustain no loss by selling their public debt instead of curtailing their discounts, and expresses indignation against the conduct of the banks and the practice of curtailing discounts, as productive of great individual suffering, which the banks disregarded, and pronouncing, at the same time, that reason, humanity, and sound policy, all united against the curtailment of bank discounts. I ask, whether such a letter, and from such a source, has ever before been witnessed? I ask, in the name of all that is just and sacred, from whence arose the difference, to the Executive, between a return to specie payments by curtailment of discounts and the sale of public debt; and I demand the reason of this unhallowed and rude Executive interference in the interior policy of our State institutions, that, by the acknowledgment of the Treasury, were honestly preparing to meet their specie engagements, by gradually calling in the debts justly due them? I will not for a moment harbor the evil thought, of a wish by the Executive to render the local banks unpopular by these loud complaints of individual

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hardship; but, to show the inconsistency attending such complaints, when coming from the Treasury, it is only necessary to appeal to the same letter, where the advice, that the State banks should sell their public debt, is enforced from the consideration that the precious metals had, in a certain late interval, continued to flow into the country from abroad, in quantities sufficient to reduce the premium on specie, &c. If, then, the stock of precious metals of the country was so replenished that many millions of public debt might suddenly and safely be thrown into the market, and sold for hard cash without risking loss, let me ask, whether the same abundant supply of specie would not have enabled the bank debtors to make payments, by which their debts might be gradually diminished?

The Treasury and National Bank, in the Fall and Winter of 1816-17, exhibited by their relations, each to the other, a singular spectacle. The Treasury acknowledging itself at once the protector and dependant of the new institution, makes a voluntary tender of a profusion of Government favors, which the bank declines, but finds itself dumb to every inquiry for the motives of its refusal. The Treasury having in vain urged the local banks to resume specie payments on the 20th February, instead of the 1st July, determined, after the 20th February, to refuse the paper of the non-paying banks, and make the National Bank the exclusive receptacle of the revenue, which would draw to it, in addition to its business paper, and ordinary loans, the whole occupation of discounting for the accommodation of the debtors to the Treasury for duties, and thus enable it to employ advantageously the \$4,200,000 specie, which should be in its vaults in January, 1817, and the \$7,000,000 of specie which it would hold in July of the same year. But the National Bank, knowing its own secrets, and that a collusion subsisted between itself and its stockholders, by which the second specie payment would not be made as required by the charter, and that, if the Treasury refused the State bank notes, it would devolve on the great bank the necessity of making such numerous loans, as would, within a few weeks, or indeed a few days, draw from its vaults every dollar of the specie received on the first instalment, without even the possibility of extending to the speculating stockholders the enormous accommodations they had in view—it had, therefore, no resort, but to wrestle with the Treasury in support of the credit of the State banks; and, although by this deceptive conduct, it was saved from the ruin of its own delinquency, in failing to comply with the instalments required by its charter, it has encountered the hardship of appearing before our select committee, with a claim to merit for its pretended magnanimity in relation to the local banks. The Treasury still persevered in its courtly offers to the new bank, and to relieve it from the peril of ruin by the loss of specie, on the contemplated refusal of State bank paper, addressed it with a proposal to aid its operations by the issue of Treasury paper, receivable in payment of duties, and to be loaned

by the bank, for Government, under circumstances by which the specie might not be endangered. This offer also was declined, from the intimate knowledge which the bank had of its own secrets. It knew that the small compensation it would be entitled to for loaning the Government's paper would scarcely increase the stock dividends, and that without a larger dividend the price of stock must diminish, which would be ruinous, or at least injurious, to the speculators who controlled its operations. It moreover knew that the loans which the fifth of specie, paid by the first instalment, could afford, would not furnish a dividend to increase the price of stock. Its policy, therefore, was to have the Treasury balances against the old banks transferred to it; to indulge the old banks, on their agreement to pay an interest, which would swell the dividends without the risk of danger, in case Government would continue to receive the State bank paper in the collection of the revenue. Hence, the new bank turned from the Treasury offers, and sought a correspondence with the State banks; proposing that they should humor the Executive by agreeing to pay specie on the 20th February, and that it would draw from the Treasury all the balances against them, and indulge them until the 1st July, (their own time,) on receiving interest in the interval.

The times of the payment of the instalments to the Bank of the United States were fixed by the charter; the books were opened the first Monday of July, 1816, at which time it is believed a great portion of the stock was subscribed. One instalment was then payable, and the two others on the corresponding days of January and July, 1817. Yet, by some calculation which I have never been able to understand, the instalments were not considered as due until the 23d January, 1817, and the 23d July. It is well known that the State banks, from a view of the charter, fixed on the first day of July for the resumption of specie payments, on a supposition that it was the time at which the last instalment would be received by the National Bank. Whether the bank thus past dated the instalments to overreach the period fixed by the State banks, and to give its subscribers three weeks' play on the vaults of the local banks to raise the specie of the last instalment, or whether such feats of ingenuity are customary in the intercourse among these moneyed companies, I am unable to say. I am, however, willing to say, that I should not condemn the bank, were this its only transgression.

I will now, sir, pray your attention to the agreement of the 31st January, 1817, between the Bank of the United States and the incorporated banks of New York, Philadelphia, Baltimore, Richmond, and Norfolk, by which the latter banks yield to the proposal to pay specie on the 20th February instead of the 1st July. The second proposition of that agreement, by which the balances against those banks were transferred from the Treasury to the United States Bank, was duly performed by it, being altogether to its advantage, and to the prejudice of the State banks,

by the amount of interest received by the one and paid by the other. By the third proposition, the Bank of the United States was not to demand those balances until it should discount for individuals (*other than those having duties to pay*) six millions, as prescribed by the terms of the contract. There is no express stipulation binding the United States Bank to discount for those having duties to pay, but every one who reads will be convinced that all parties expected it was to afford those discounts; yet the United States Bank so contrived, by encouraging the receipt of floating State bank notes at the Treasury, as to make it unnecessary to afford accommodations to the importers, although, from the circumstance of the revenue bonds being payable at the United States Bank and its branches, it was expected that many applications would have been made for loans as they fell due.

Our Executive Government was a party to this arrangement; one feature of which carries with it an idea irreconcilable with justice or good report. I mean the second proposition—which bestows on this new corporation a claim of interest against the State banks, on the balances due the Government, without any compensation to the Treasury—against all previous practice, in behalf of speculators, and to the prejudice of the public. It is not denied that the United States Bank ought to have received interest, if the balances had been received as a general deposit, on which the Government could have been at liberty to draw at pleasure, either for specie or the paper of the National Bank; but this was not the case, for, by the exception contained in the second proposition, the United States was to draw from the State banks such parts of said balances as might be wanted by the Treasury, and consequently had no right, in any event, to draw on the National Bank for any part of the balance for which it received interest. The transaction remained precisely as if the State bank paper had been in the Treasury, to be used or not, at the pleasure of Government, during all the time the banks were paying interest on it to the new bank. It amounted, in truth, to the gift of an unwarrantable speculation by the Executive to the bank.

When viewed in another light, the agreement of the 31st January, 1817, was a palpable fraud by the United States Bank on the State banks. By the terms of the charter of the former, its second specie instalment was payable in January, and all parties well knew that the State banks the more readily assented to the contract in consequence of the understanding that the four million two hundred thousand dollars, the specie part of the first and second instalments, had been paid into the vaults of the United States Bank, and consequently was not to be drawn from the metallic resources of the other institutions; whereas the directors and stockholders of the United States Bank, with a full knowledge of the existence of this expectation on the other side, and at the very time whilst negotiating the agreement, were making a collusive arrangement

to accredit the subscribers at least sixty days for the specie of the second instalment, which would authorize its payment after the 20th of February, when it might be taken from the State banks.

I now proceed to examine whether the charter of the National Bank has been violated by the omission to pay the second and third instalments of the capital, as prescribed by the act of incorporation. The third section of the act declares "that the sums subscribed shall be payable and 'paid in the manner following—that is to say, 'seven millions of dollars thereof in gold or silver coin of the United States, or in gold coin of 'Spain or the dominions of Spain, and twenty-'one millions of dollars thereof in like gold or 'silver coin, or in the funded debt of the United 'States.'" And further, that "the payments of 'the said subscriptions shall be made and completed by the subscribers respectively, at the 'times and in the manner following—that is to say, at the time of subscribing, there shall be 'paid five dollars on each share, in gold or silver 'coin as aforesaid, and twenty-five dollars more, 'in coin or funded debt; at the expiration of six 'calendar months from the time of subscribing, 'there shall be paid the further sum of ten dollars on each share, in gold or silver coin, and 'twenty-five dollars more, in coin or funded debt; 'at the expiration of twelve calendar months 'from the time of subscribing, there shall be paid 'the further sum of ten dollars on each share, in 'gold or silver coin, and twenty-five dollars more, 'in coin or funded debt."

The terms of the law to which I have thus adverted, prescribe not only the amount of funds to be advanced as capital, but the time of payment and the quality or sort of funds; and, judging both from the letter and spirit of the law, we are bound to pronounce that the time and quality of the funds were as material and important in the view of the Legislature, as the quantity. It was certainly essential that the whole one hundred dollars of each share should be paid; and equally necessary that twenty dollars of the second and third instalments should be paid in gold or silver coin, and that the residue should be paid in coin or public debt. But all sides admit that neither the specie nor public debt proportion of the second or third instalments were paid. I therefore insist that a violation and consequent forfeiture of charter has been incurred by that delinquency.

Some gentlemen allege, that the mere negative offence of non-payment of instalments by individual stockholders, or any number of stockholders, should not be deemed a violation of the charter on the part of the bank. But, let it be remembered, that the charge is not rested on the mere delinquency of stockholders, incurred against the will of the bank; for the corporation itself participated in the offence, having, by its corporate and official act, interfered, and dispensed the stockholders from a compliance with the law, by usurping the power of inviting and accepting an arrangement, not only different from, but mani-

*Trade with the Indians.*

any license trade with their nation, as the only effectual means which suggested itself to prevent it.

The reasons for fixing the trading establishments are no less strong. By rendering them stationary, and compelling the proprietors to keep books, containing regular entries of all their sales and purchases, important checks will be presented to prevent fraud and exorbitant charges. It will also strongly tend to prevent collision between the traders, and, consequently, the creation of parties among the Indians, for or against particular traders; a state of things unfriendly to their interest, and dangerous to the peace of the frontier. Besides, the trading establishments being fixed, as they will be, in the most advantageous positions, each will, in time, become the nucleus of Indian settlements, which, by giving greater density and steadiness to their population, will tend to introduce a division of real property, and thus hasten their ultimate civilization.

Such are the provisions under which the trade with those tribes of Indians in our immediate neighborhood may with safety and advantage be opened to individual enterprise. With a vigilant administration, it will produce results equally salutary to the Indians and ourselves. In fact, the knowledge of the use of money, and the prices of most of the ordinary articles of trade, is so far advanced among them, as to guard them, to a considerable extent, against mere fraud and imposition; and, with the control which the Government may exercise over the trade with them, they would generally receive their supplies on fair and moderate terms. The system is not less calculated to secure peace. The regular traders, who have paid for the use of their licenses, will be the most active to prevent vexatious peddling and retailing of spirituous liquors, which are the bane of the frontier. They will, besides, become the most active promoters of industry, for the almost total destruction of game has rendered the amount of peltries and furs of little value in this branch of Indian trade, and the capacity of paying for the goods purchased must, consequently, in a great measure, depend on the product of the soil. In fact, the neighboring tribes are becoming daily less warlike, and more helpless and dependent on us through their numerous wants, and they are rendered still more pacific by the fear of forfeiting their lands and annuities. They have, in a great measure, ceased to be an object of terror, and have become that of commiseration. The time seems to have arrived, when our policy towards them should undergo an important change. They neither are in fact, nor ought to be, considered as independent nations. Our views of their interest, and not their own, ought to govern them. By a proper combination of force and persuasion, of punishments and rewards, they ought to be brought within the pales of law and civilization. Left to themselves, they will never reach that desirable condition. Before the slow operation of reason and experience can convince them of its superior advantages, they must be overwhelmed by the mighty torrent of our popu-

lation. Such small bodies, with savage customs and character, cannot, and ought not, to be permitted to exist in an independent condition in the midst of civilized society. Our laws and manners ought to supersede their present savage manners and customs. Beginning with those most advanced in civilization, and surrounded by our people, they ought to be made to contract their settlements within reasonable bounds, with a distinct understanding, that the United States intended to make no further acquisition of land from them, and that the settlements reserved are intended for their permanent home. The land ought to be divided among families, and the idea of individual property in the soil carefully inculcated. Their annuities would constitute an ample school fund, and education, comprehending as well the common arts of life, as reading, writing, and arithmetic, ought not to be left discretionary with the parents. Those who might not choose to submit, ought to be permitted and aided in forming new settlements at a distance from ours. When sufficiently advanced in civilization, they would be permitted to participate in such civil and political rights as the respective States within whose limits they are situated might safely extend to them. It is only by causing our opinion of their interest to prevail, that they can be civilized, and saved from extinction. Under the present policy they are continually decreasing and degenerating, notwithstanding the Government has, under all its administrations, been actuated by the most sincere desire to promote their happiness and civilization. The fault has been, not in the want of zeal, but in the mode in which it has been attempted to effect these desirable objects. The Indians are not so situated as to leave it to time and experience to effect their civilization. By selecting prudently the occasion for the change, by establishing a few essential regulations, and by appointing persons to administer them fairly and honestly, our efforts could scarcely fail of success. Nor ought it to be feared that the power would be abused on our part, for, in addition to the dictates of benevolence, we have a strong interest in their civilization. The enmity even of the frontier settlers towards them, is caused principally by the imperfections of the present system; and, under the one which I have suggested, it will greatly abate if not entirely subside. The natural humanity and generosity of the American character would no longer be weakened by the disorders and savage cruelty to which our frontiers are now exposed. A deep conviction of the importance of the subject, and a strong desire to arrest the current of events which, if permitted to flow in their present channel, must end in the annihilation of those who were once the proprietors of this prosperous country, must be my apology for this digression.

It remains to consider in what manner our trade can be most successfully prosecuted with the numerous Indian tribes who occupy the vast region extending west to the Pacific Ocean. It is obvious that the system proposed for the partially civilized tribes, bordering on our settle-

situation of being forced to receive from the left hand of the stockholder the dollars he had withdrawn from the vault by his right; but, on the contrary, the avowed purpose of the institution was to dispense with the law—dispense with the specie required by the charter, and receive the note or bond of the party, in lieu of cash. In truth, the remission of the specie instalments was a criminal and detestable collusion between the bank and the stockjobbing portion of its subscribers, in fraud and prejudice of the Government, the public, and the widows and orphans—those orphans of whom we now hear so much—who are made to weep and plead for this combination of speculators, that they may again incur the risk of being cheated by partners that have not capital to risk, or are unwilling to risk it.

A gentleman from South Carolina, in speaking with reference to the defalcation of the second instalment, in the desultory debate which occurred in originating the select committee, reminded us that the non-payment of the second instalment had been agitated in the fourteenth Congress, and seemed to consider that circumstance as affording a bar to prevent us from passing judgment on it. It does appear that, in 1817, the committee on the national currency was directed to inquire into this affair, and actually proceeded the length of inquiring of one of the directors, by a polite note, how the thing was, and afterwards made a lengthy report, consisting of a letter from this director, (Mr. Lloyd,) which, in substance, assured the committee that the directors were all honest men, and had committed the crime charged against them with an only eye to the public good; and, being thus convinced, from the mouth of one of the directors, that no harm was intended, the committee asked the House to discharge it from further inquiry into such a delicate subject. But this House made no decision on the propriety or wrong of the conduct of the bank: on the contrary, it suffered the business to lie on the table, so as not to bind it from acting as future circumstances might dictate.

I will now remind the House of another topic of the report of the select committee, which manifests, in my humble judgment, a violation of the bank charter. The president and cashier, as well of the mother bank as of some of the branches, have, under pretence of authority from the board of directors, exercised the power, first, of making discounts on pledges of stock; secondly, of renewing loans on pledges of stock; and, thirdly, of purchasing bills of exchange. These three powers are of the same nature and altitude, although the latter, involving the necessity of judging of the solvency and sufficiency of the parties to the bills, would generally be more susceptible of alarm than the powers to loan and renew loans at a given rate on pledges of stock. But neither of these three powers could be exercised on behalf of the corporation, except by the board of directors. The fourth fundamental article of the charter speaks in language incapable of misconstruction, declaring that no less than seven di-

rectors shall constitute a board for the transaction of business, of whom the president shall be one, &c. How, then, can it be pretended, that the President, without the other directors, is to exercise powers which Congress has vested in a number of directors, not less than seven?

The president of the bank has informed the select committee that he considered these operations by himself and the clerk as mere ministerial acts, which might as well have been done by the discount clerk. While I admit that the board had as much pretence to transfer the power of making loans to the clerk, who is not even a director, as to the president and clerk; and hence infer the absurdity of the notion of the board alienating to a stranger the important trusts confided to them by the Government, the stockholders, and the public law, which gave birth to the institution. I also insist that this absurdity is not removed, or softened, by ranking the faculty as a ministerial power. No one who had read and attentively considered the act of incorporation, and who was not a wag, would seek to caricature the corporation by bringing it in comparison with our political Government, and assigning to it departments, legislative, executive, and judicial, or judicial and ministerial. Gentlemen, however, are at liberty to call the powers usurped by the president and cashier *ministerial*, or by such other denomination as may strike the fancy or square with their judgment; it will, after all names are spent, or under every classification of heads, remain what it was at and after the 8th of August, 1817, (when conferred by the board,) a power to make and renew loans, and discount bills on personal security, which is of the ordinary business of the board of bank directors, and consequently embraced by the letter and spirit of the fourth article of the charter; and, whenever it can be shown that these acts are ministerial, it will follow that the ordinary acts of the directors are also ministerial. The dangerous precedent furnished by this aberration from the constitution of the bank cannot be too strongly deprecated; for, with equal plausibility, might the directors chaffer with or alienate every other important power conferred by the charter. The order of the board defining the description of loans which was put under the control of the president and cashier, was nothing more or less than a by-law of the corporation; in which view the question again only recurs, whether the directors can, through the instrumentality of a by-law, vest in one man, or a stranger, the power of lending the money of the corporation, which the charter has virtually declared shall not be loaned by less than seven directors.

The select committee has reproached, in strong terms, two practices of the corporation, that of the subdivision of shares and the consequent increase of votes for directors, by the overgrown stockholders, and the speculations in public stock by the directors, whose official stations subjected their characters and motives to the lash of censure. With the honorable committee I follow suit, in its moral disrelish of the intrigue of



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increasing votes by colorable transfers of stock, and its abhorrence of inordinate speculations by officers who had control of the institution; yet my distaste in this respect confines itself to moral censure, for there is no law to prohibit the wealthy stockholder from using his utmost influence in elections, by so arranging his shares as to count the greatest number of votes; nor have the president or directors been prohibited from buying and selling stock, as other members of the community; and I had thought that history, if not experience, had taught our Government, that corporations of trade, with their hosts of officers and servants, were at all times prepared to commit every offence which avarice could instigate, except when restrained by the force of a wholesome police. The fault, then, rests on the head of this Government, which has created and sent forth this mighty corporation of avarice, with all the exclusive privileges which could render it odious and dangerous, and without those checks which a due regard to public security imperiously required.

The 14th page of the report of the committee discloses a transaction of usury on the part of the bank, which, if imputed to any private man, would assuredly consign his character to infamy. The bank, in this instance, affects to make a loan, by discounting a note of \$20,000, payable in sixty days, and receives the whole interest thereon, as if it had actually loaned the money in hand, whereas it only advanced a post note, payable also at sixty days, by which the bank was not to advance a dollar before the note it discounted would become payable, and, as the discounted note and post note became payable on the same day, the nominal borrower might have claimed interest of the bank, with as much grace and justice as the bank claimed and actually received it of him; and, this, it seems, is only a single instance of what the bank frequently practised. Indeed the directors on the 30th January, 1817, adopted advisedly a resolution to enter extensively into the practice. The report hesitated to pronounce the transaction usurious; the hesitation, sir, of a moment, a fitting instant; for I am satisfied that the superior intelligence and forensic acquisitions of the members of that committee would, with less than five minutes reflection, have dissipated all doubt of the true character of this affair. Without embarking in legal or technical disquisition (which must always be irksome on this floor) I will venture the assertion, that no member who has turned his attention to the subject will deny that the transaction was usurious, not merely in taking more than legal interest, but in taking any interest whatever. The committee has recommended no provision in relation to this scandalous depravity, from a supposition that the parties have their remedy in the courts of justice. Here, with all deference, I must venture to believe the committee is mistaken, and to hazard an opinion that we have here found a mischief that will haunt our country until this mighty institution shall be no more. How shall the injured party acquire redress? This Govern-

ment has neither inserted anything in the charter nor passed any other law to afford him redress, and probably is unable to do so, for the affair having transpired in the interior of a State, between citizens of the same State, neither the Constitution of the United States, nor any law we could constitutionally pass, could give the Federal courts jurisdiction; and I understand that the friends of the bank contend that the State Legislatures have no authority to tax or control the conduct of the United States Bank. But if the State courts had what may be taken as a right of jurisdiction over this bank, it would of necessity be an abstract sort of power, to which the bank would not be tangible. The State punishes the natural persons of its territory for crimes, by fine, imprisonment, or death—it punishes or restrains State corporations by stipulations of charter, and its visitatorial power as the founder of such institutions. If you yield an authority to the State courts to punish the United States Bank, then inform me how the power shall be exercised, or admit its impracticability. The State cannot certainly revoke the charter of the United States Bank, nor can it imprison it. In truth, the laws of the States only recognise and adapt themselves to ideal personages, existing by the enactment of the same public authority which spake those laws into force, and has no more application to this corporation, than to ghosts of the dead.

I differ in opinion with my honorable colleague (Mr. JOHNSON) who would repeal the bank charter, because he believes that Congress had no Constitutional power to establish a bank. I entertain (as I always did) the conviction that Congress has power to pass a law chartering a bank, and moreover believe that it possesses the power to repeal the act of incorporation, or any other law which it has previously enacted. Gentlemen who believe with me that the charter is Constitutional, and yet contend that Congress has no power to repeal it, must chalk a new course of reasoning, different from that usually pursued by those who have hitherto opposed the extension of Federal power. The customary allegation has been, that this or that power is not of the subject-matter conferred by the Federal Constitution; but the passage of the act of incorporation, in 1816, admits a national bank may be a subject of Federal legislation, and, if so, we may make or repeal laws applicable to that subject. Even those who deny us the power to legislate on banks, will vote for our power to repeal; for, if an unconstitutional law has been passed, it would become our duty, by a declaratory act, to annihilate the illicit force of such a measure. Exclusive of the rules for the government of the bank, the act of incorporation furnishes certain conditions which affect the existence of the institution. The Government agreed to enter into partnership with the other stockholders, and to form a trading company, to deal in exchange, &c., the capital to consist of \$35,000,000. One condition not only stipulated the advance of twenty-eight millions of dollars, (the capital of the concern,) by the subscribers, but required that the funds should consist of a certain quality—

so much in specie, and the residue in specie or public securities—which condition was not less essential, in calling for quality, than with regard to quantity. Another important feature of this condition was, that those funds should be collected into an aggregate capital within a limited time—six and twelve months. But the essential conditions, thus affecting the nature and existence of the institution, have failed, by the non-compliance of the subscribers, or, more properly speaking, by the default of the corporation, or its controlling officers, who were the legitimate representatives of the collective subscribers. It is true, the corporation was authorized to commence operations on the payment of the first instalment of eight millions four hundred thousand dollars of specie and stock. This sum, however, was considered as only a fraction of the capital; and the legislative expectation dwelt as strongly on the second and third as the first instalment, and considered its advance and quality as conditions which must have been material, as the amount and sort of capital is always material in the formation of companies of limited partnership. The advance of the first instalment, in the language of municipal lawyers, would be a condition precedent, whilst the payment of the second and third instalments were properly conditions subsequent; and it will not be denied that conditions subsequent are as material to defeat an estate, or right, as conditions precedent. If there has been a non-performance of the conditions affecting the very existence of the corporation, nothing more can be necessary, on our part, than a declaratory act of legislation, apprizing society that, the conditions being unperformed, the company of subscribers are not entitled to exercise or continue the corporate powers, which could not be claimed except on a supposition of a performance of conditions. In illustration of this idea, let us imagine a non-payment of the first instalment required by the charter, and that the subscribers, after paying but a tenth of that instalment, had usurped the powers of a corporation, under pretence of the charter: would any gentleman doubt the power or propriety of enacting a law declaring the non-performance, and announcing the invalidity of the charter? Congress has the same right to announce, by a declaratory law, to the community over which it presides, the non-performance of the conditions of the two last instalments, and to make such provisions as will insure a just distribution of the funds which would revert to its individual owners. Gentlemen may talk of the unconstitutional strides of convicting the corporation or its members of offences without judicial investigation or jury trial. In the view I have this moment presented, neither the corporation nor its members are convicted of crimes, as the mere non-performance of a condition is no crime; for if you give or promise me an estate, on my performance of a certain act, and I omit the performance, no one imagines that I am to be charged with crime, or dragged to court, or tried by a jury, for my neglect: the issue of the affair is, that I cannot claim the estate without showing a perform-

ance. A visitatorial power is found to exist somewhere over all corporations—a power competent to correct its abuses, or revoke its charter when violated and forfeited. In England, corporations are frequently created by the mere grant of the Executive magistrate; and of such corporations, the Court of King's Bench (which in that country is, or originally was, an arm of the Executive department) is the visitor, and, by *mandamus* or *quo warranto*, corrects or destroys the corporation; and the Parliament may exercise the same power without the aid of the King's Bench. The act of incorporation here, as regards its nature and incidents, must be interpreted by a reference to the common law, from whence, and not from the civil law, we have borrowed our notions on this subject. At common law, every corporation is subject to the visitatorial power of its founder. But Congress is the founder of this corporation, and therefore possessed of that visitatorial power which, for sufficient cause, may correct or destroy the institution.

I submit another view. This mighty institution had its inception in an act of sovereignty; and, having derived its existence from legislation, it seems peculiarly fit, or probably absolutely necessary, that its fate should be sealed by a like act of legislation, if it be worthy of death. The courts of England, by judgment, will oust corporations of their privileges, where those privileges are merely derived from the Executive Magistrate, or for good cause repeal or revoke other Executive grants; but the courts have never revoked acts of Parliament, or grants contained in them. So if Congress, by a general law, authorizes the President to grant lands to soldiers, and he grants land to one who was not a soldier, the courts would repeal the grant, as having issued without authority. But if Congress by a particular law grants land to an individual, the courts would not revoke the grant for any cause; for this would be to repeal a law, and consequently the exercise of legislative power. If it be said that Congress has conferred the power on the court by the act of incorporation to repeal the charter, I reply that this charter is nevertheless an act of Congress; that its repeal must be an act of legislation; and that Congress cannot confer on the courts the power of legislation.

The corporations of England and of every State of the Union are subject in some shape to visitatorial powers, by which they are restrained or destroyed, when they pervert the ends for which they were called into being. But this bank, if not subject to the legislative authority of Congress, is incapable of subjection by any power on earth, and may with impunity extend its ravages of injustice on the people and States of this continent, from Maine to Mexico, and laugh into insignificance the Federal compact which has hitherto afforded protection to the people, and to which the Federal family has sworn obedience. If then this great corporation has thus become too powerful for the Government, and acknowledges itself subject to no law, and yet retains all its capacity to sin, I would aim a blow at its ex-

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istence, even at the risk of wrenching out of joint the Constitution of the Union, which we all revere.

The advocates of this bank and of the old Bank of the United States deduce the authority of this Government to establish a bank from its powers over the Treasury and fiscal concerns of the Union. Admitting, as I do, the correctness of their deduction, permit me to ask whether the authors of American polity could have anticipated that Congress would ever find itself disabled to make, repeal, alter or modify, any of the laws in relation to the Treasury.

Conceiving that the bank has forfeited its charter, not only by a non-compliance with the conditions, but by the commission of crime, and that Congress has power to repeal the act of incorporation, I have never had a moment's hesitation of the expediency of the repeal. It has been said that we ought not to repeal, because the good faith of the Government is pledged to this institution. What is the import or force of this pledge of good faith? These expressions are resorted to on such variety of occasions, of late, as might warrant a suspicion that they were susceptible of application to all cases; and, if so, ought not to be used in any case. Is it that moral obligation, perfect or imperfect, imposed on Government in consequence of a promise or promises? Be it so, unless you afford me another definition. But, if the Bank has failed to comply with the express condition on which the promise of the Government depended, and has, by the enormity of repeated crimes, violated those wholesome conditions implied in all charters, how can it speak of that good faith which vanished whenever the bank ceased to dwell under its protection? The charter being forfeited, we are remitted, if we think proper to enforce the forfeiture, to the free condition of the Congress that granted the charter, with the additional advantage of two years' experience of the harm evinced by the bank in its infancy, and the ability to anticipate our fate from its growing strength. When viewing the alleged violations of charter, I hold myself bound to yield to every fair claim or expectation of the corporation, respecting its connexion with Government, without bias from popular feeling. But having found a violated and forfeited charter, and a corporation begging reprieve from the fatal evils of its own wrong, then it is I find the hand of my constituents on me; nor will I be so deaf to the wishes of the people or the dictates of justice as to raise the monster from the dead, or relieve it by renewing its capacity to visit the public with its complicated mischiefs.

I have acknowledged my utter dislike to corporations of traffic, by which a few favored personages are admitted to privileges from which the people are excluded; by which a few are permitted to trade to an indefinite extent on a definite fund without subjecting their estates to liability for their debts, whilst the rest of the people are liable, in their persons and whole fortunes, on every of their contracts. I dislike these corporations, because, the rights of all men being equal,

every grant of exclusive rights to potent combinations or companies, being carved out of the previous claim of others, operates as a proportionate alienation of the liberty of all other persons in the community. But, above all, I abhor the thing we call a bank *bonus*, it being the price at which a legislative body sells to a combination of speculators peculiar political, civil, or commercial privileges from which the people are prohibited. The price offered and accepted at the creation of this corporation was \$1,500,000. The old Bank of the United States never insulted the Government by the offer of a bonus or bribe. Say nothing of the pious or useful objects to which such money may be appropriated, (for it can never be just to obtain money by injustice,) let the disbursement of such money be such as it may. If corporations are absolutely necessary, the public good would justify their creation without the immorality of selling political rights at auction. But, the plea of necessity never holds in these bargains, for, however proper corporations may be, the bonus is never offered for a mere charter, but always in consideration of some peculiar and exclusive privileges which may be dispensed with. This notion of a bonus, lately so familiar as to startle nobody, has found its precedent in Europe, the institutions from whence are annually gaining popularity with the mercantile class of this country. The Bank of England is bound to renew its charter each twenty years, by the advance of pecuniary advantages to that Government; but it is due to the character of our English ancestors to remember that their early resort to this degrading practice was the consequence of misfortune and evils, which gives them, at least, the show of an excuse, to which our Government has no pretension. I remember the circumstances attending one renewal of the English bank charter, which are not materially different from those accompanying all the earlier renovations of charter. In 1708, Parliament, by its vote, granted to the Queen upwards of £2,000,000 for maintaining the forces in her pay in Spain and Portugal, for subsidies payable to her allies, *et cetera*. Whilst this measure was depending, the Ministers, having exhausted their ingenuity, found it impossible to raise even a moiety of the sum, although the whole was indispensable. At that critical juncture the Bank appeared before Parliament, as a saving angel, with propositions for a renewal of charter, and an offer to advance the sums wanted. It is scarcely necessary to observe that the offer was accepted. We have no such palliative to cover our departure from principle in respect to this bank. We copy the vices of Europeans, without the trimmings to make them passable; or, in truth, endeavor, in our day of national prosperity, to imitate the traits of evil deformity which circumstances, and not choice, have imposed on European nations.

It is no cause of surprise that the State banks in every quarter of the continent are terrified by the threatening aspect of this institution of thirty-five millions. The Government of the Union has also entered into partnership with the specu-

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lators of this great bank, and not only become the proprietor of one-fifth of the stock, but has presented the company with the whole national revenue, as a capital to trade with, in exchange. In short, the strong box of the nation has been delivered and locked in the bank vaults. No rival institution can compete with one which finds itself in partnership with the national Government, and in possession of its revenues. Not only the State banks, but the State governments, must be inspired with apprehensions of insecurity from such a combination of influential force, and gentlemen who have, on other occasions, displayed so much ingenuity and eloquence on this floor in defence of State sovereignties and State rights, will, I hope, see in the question now on hand an object worthy of their exertions; they will not, I am convinced, after having rescued the States from open attacks, tamely suffer the General Government to organize and strengthen a moneyed aristocracy which would devour the State banks, intimidate the State governments, and swallow the annual revenues of the country. For my own part, I shall, with a cheerful conscience, vote for the resolution of my honorable colleague, (Mr. JOHNSON,) to repeal the bank charter.

Mr. LOWNDES then intimated a wish to make some remarks on the subject, which, late as it was, he would proceed to do, at once, if the Committee were disposed now to hear him; but, if they were desirous of rising, he would give way.

A motion being made to that effect, the Committee rose, and the House adjourned.

FRIDAY, February 19.

Mr. POINDEXTER presented a petition of the General Assembly of the State of Mississippi, praying that provision may be made for quieting the claims to land in that part of said State, formerly comprised within the province of West Florida, derived from the British Government, so far as the said grants interfere with those derived from the Spanish Government; which said petition was ordered to lie on the table.

Mr. LITTLE, from the joint committee upon the subject of the public printing, made a report; which was read, and ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred bills of the Senate, of the following titles to wit: "An act for the relief of David Henley;" and "An act for the relief of James H. Clarke," reported the said bills without amendment; and they were respectively committed to a Committee of the Whole to-morrow.

The House having resumed the consideration of the bill to divide the United States into four districts for the regulation of the coasting trade, and of the amendment thereto proposed, by Mr. SILSBEE, for reducing the number of districts from four to two—

Mr. MILLS moved to postpone the bill indefinitely; in which motion he was supported by Mr. ORR; and opposed by Messrs. SILSBEE, WHIT-

MAN, HOLMES, and LINCOLN. This debate was confined to the representation from Massachusetts, and turned principally on considerations connected with the relative interests of the District of Maine and of Massachusetts proper. The motion to postpone was negatived, but not before an effort had been made, in order to end the debate, to lay the bill on the table, which was negatived.

The question was then taken on the amendment moved by Mr. SILSBEE, as above, and decided in the affirmative.

The motion was then renewed to lay the bill on the table, and carried.

The bill making further provision for the sale of the public lands; and the bill for designating boundaries of land districts, and establishing offices for the sale of lands remaining unsold in Indiana and Ohio, were received from the Senate, severally twice read, and referred.

Bills from the Senate, of the following titles, to wit: An act to regulate the pay of the Army, when employed on fatigue duty; An act for the relief of John B. Timberlake; and, An act to enable the people of the Territory of Alabama, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, were severally read a third time, the last as amended, and passed.

#### ARKANSAS TERRITORY.

The House then proceeded to the consideration of the bill to establish a separate Territorial government in the southern part of the Missouri Territory.

A motion was made by Mr. ROBERTSON, of Kentucky, with the view of obtaining the erasure of the amendment yesterday adopted, to recommit the bill to a select committee, with instructions to strike out these words: "And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years."

And the question being taken thereon, was decided as follows: For the recommitment 88, against it 88.

YEAS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Del., McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Md., Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Ballard Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of

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Kentucky, Whitman, and Williams of North Carolina.

**YAYS**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

There being an equal division, the **SPEAKER** declared himself in the affirmative; and so the said motion was carried; and Messrs. **ROBERTSON**, **SILSBEE**, **BURWELL**, **MILLS**, and **LOWNDES**, were appointed the said committee.

**MR. ROBERTSON**, from the committee to whom was this day referred the bill establishing a separate Territorial government for the southern part of the Territory of Missouri, with instructions to amend the same, by striking out these words: "And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years," reported the same, amended agreeably to the said instructions.

**MR. MERCER** expressed his views of this question in a short speech.

The question was then taken, to concur with the select committee, in striking out the said words, and passed in the affirmative—yeas 89, nays 87, as follows:

**YEAS**—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

**NAYS**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage,

Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Ruggles, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

So the House determined, by a majority of two votes, to strike out the clause imposing a restriction on slavery in the proposed new Territory of Arkansas.

**MR. TAYLOR** then moved to amend the bill by inserting a provision "that, during the existence of the Territorial government of Arkansas, no slaves shall be brought into the said Territory, to remain therein for a longer time than nine months from the date of their arrival."

**MR. PITKIN** supported, at some length, the amendment.

**MR. WHITMAN**, of Massachusetts, addressed the Chair as follows:

**MR. SPEAKER**, I am impelled, by a sense of duty to myself, as well as by a hope to be able to throw some light on this subject, to endeavor to exhibit the view which I have taken of it. At this stage of the debate, the House having become weary, I cannot expect to gain much attention; and, had any other gentleman exhibited the view which influences my mind, I should have been silent. Without some explanation, the vote which I am about to give might seem inconsistent with that which I gave in Committee of the Whole, and should have given in the House, on a similar amendment proposed, in the case of the admission of Missouri as a State. I voted in that case against the admission of slavery into that State. I did not so vote, however, in expectation that it would diminish slavery in the United States. I do not view the subject as necessarily involving that question; and, if it be involved in it, I think it can be made manifest that the reasons are in favor of its admission, rather than its rejection, if we would promote emancipation, and provide for the amelioration of the condition of the slaves. No man would abhor more a contrary tendency than I should. I should shudder at the idea of adopting a measure tending to the increase of such misery and wretchedness.

The slaves already in the United States, as the laws now are, can only be increased by procreation. The penalties against further importation, and the measures adopted to enforce them, are such that we cannot reasonably fear that many, if any more, will be smuggled into the Union. The permission of slavery in the Territory of Arkansas will afford no additional facilities to the introduction of this unfortunate race from abroad. The State of Louisiana, already estab-

lished, lying principally west of the Mississippi, and on the banks of it, and adjoining the Gulf of Mexico, without being under any restriction in this particular, will be the place in which slaves will be smuggled in, if smuggled at all. They could not be smuggled into Arkansas till they had been conveyed three hundred miles through Louisiana.

The natural increase will be the same, whether in one part of the Union or the other; or, if it would be greater in the Western country, it would be the consequence of an ameliorated condition, and therefore not to be regretted, as the cause of humanity would thereby be promoted. This will be obvious to those who have had an opportunity of comparing the slavery on the Atlantic seaboard with that of the Western country. On the seaboard, for from fifty to eighty miles into the country, through the whole of the Southern States, the soil is sterile—and there it is that there is the greatest proportion of slaves, subjected to the most lamentable state of degradation and misery. The produce is trifling and scanty; the market at the same time high. The slave is pinched and stinted, and allowed, in many instances, but his peck of corn per week for his whole subsistence. In the Western country the produce is abundant, and the market poor; the slave is there well fed and happy. The greatest kindness you can do a slave, is to tempt his master to remove with him to the Western country. The master will be bettered in his own condition at the same time, and this also will increase his liberality to his slaves. All travellers, from the Atlantic to the West, are struck with the increased amelioration in their condition, as they progress.

But, sir, there is another point of view in which I would beg my friends to look at this subject. In the degree in which you increase the proportion of the free beyond that of the slave population, in the same ratio you increase the chance for emancipation, final and total. To prove this, we need only to look at some of our sister States. The majority, consisting of non-slaveholding individuals, in those States, has compelled the minority gradually to let go their hold upon this species of property. New York, New Jersey, Pennsylvania, and Delaware, in this way, have nearly rid themselves of this reproach upon humanity. The best mode, therefore, to promote the cause of a final emancipation, would be to suffer the slaves to be scattered thinly over the Western States. These States will be peopled, in much the largest proportion, by those who do not, and who are too poor to hold slaves. It is the laboring class of the community, and the industrious yeomanry of our country, who will emigrate thither. The men of wealth, and those are principal slaveholders, will not remove. Hence, the case in the Western country, as it respects the slaves, will be perfectly similar to that which brought about emancipation in the States before mentioned.

In Missouri it is said that about one-fifth of the population are slaves. These were held, it is

said, principally by the French and Spanish people, at the time of its cession to the United States. The population now pouring in there, consists of the hardy yeomanry of the North. It will soon be the case there, that the proportion of slaves and of slaveholders will be comparatively trifling. Can any man believe that in such case they will not there do as has been done in the other States? The majority having the power, will they not compel the minority gradually to rid themselves of this species of property? I believe, sir, it is not in the nature of man to do otherwise. Were no restriction to be imposed on Missouri, even there it is as fixed as fate that slavery must, ere long, be abolished. If, then, it were proper to consult the cause of humanity only, in disregard of every other consideration, we should encourage the dispersion of the slaves now in the Union to the utmost of our power.

What, sir, would be the inevitable consequence of cooping them up within certain limits? In such case the poorer whites would emigrate; the slaves and slaveholders would remain. While the free population would remain stationary, or diminish, the slaves would increase. The result of which would be, as it ever has been, that the slave must be treated with more rigor; he must be kept ignorant, be humbled, and debased; for, sir, people must and will consult their own safety. If the slaves should become sufficiently numerous to render it possible to regain their freedom, if they are not degraded to the character of brutes, they will be tempted to combine and destroy their oppressors. In such cases the white people dare not admit of the emancipation of slaves, lest it should afford an opportunity to the emancipated, by means of obstruction and observation, to become capable of heading and exciting the slaves against their masters. Hence, in some States, emancipation has been prohibited by law. The condition of a slave in such cases is wretched, indeed.

This, then, sir, is not a question which ought to be decided under the apprehension that it will increase the horrors of slavery. If it affects the question, it is wholly the other way.

As to the question, which has been agitated with so much zeal, relative to the power of the United States, on the admission of a new State, to cause a stipulation to be agreed to, preventing slavery or requiring its gradual abolition, I can entertain no doubt. We certainly have this power. The Territories are under the absolute control of the United States. We have the power to admit them into the Union as States or not. Before admitting them, we may require any stipulation relative to their internal police or municipal regulations that we please, as a condition on which we will agree to their admission. We could not require anything, I admit, repugnant to the fundamental articles of the Federal Government—such as that they should not be represented in the Senate and House of Representatives of the United States, and have Electors of President, &c., the same as the other States. Whatever any other State would be entitled to by the

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express provisions of the Federal Constitution, we could not deny to a newly admitted State. Nothing will now prevent an agreement with any of the individual States in the Union as to any municipal regulation, deemed proper or necessary for the use of any portion of the citizens of the Union—and certainly the same may be stipulated for on the admission of a new State, as a condition of its admission. Gentlemen have said that, although we might compel them to stipulate in their constitutions that slavery should not be tolerated, yet, nothing would prevent their altering their constitution after such admission; and that we should have no means of enforcing the regulation—and that we cannot make stipulations that we cannot enforce. In this I believe there is a mistake. It is true, perhaps, that the United States could not, by any act of legislation, enforce the observance of the regulation. But, sir, suppose it should be attempted to hold an individual as a slave, in contravention of such a stipulation, would he not, and could he not, apply to the courts of the United States, by *habeas corpus*, or otherwise, and obtain his liberation?

These regulations are no novelty. They have heretofore been adopted on the admission of new States. Ohio, Indiana, and Illinois, have been subjected to them. Besides the regulations prohibiting slavery, we have been in the constant habit of requiring other stipulations of the newly admitted States. We have required that they should not tax the lands of the United States, and the lands sold by the United States, for five years after the sale. Now, sir, the right to levy and collect taxes is an attribute of sovereignty which could no more be abridged, on the admission of a new State, than the power to admit slavery. If we can require stipulations for the one, we can for the other—and our right heretofore has never been doubted to do either. Should a State, after its admission, in contravention of the compact, as it may be called, proceed to tax United States lands, or lands sold by the United States, before the expiration of the five years, the United States could do nothing by way of enforcing it otherwise than by a resort to the tribunals of law for relief.

This, then, is the power which we have, and can exercise whenever we deem it proper. In some cases we have exercised it in relation to the inhibition of slavery; and in others not. We have, I trust, exercised the power in cases which have properly required it; and again have omitted it in cases in which it should have been omitted. It is, then, on the admission of a new State, a question, solely, of expediency and policy. We are now to determine whether we shall exercise this power in this case.

We should consider that we have, by our common and joint funds, acquired a large tract of vacant territory west of the Mississippi; that it is valuable to our country as furnishing a fertile region for the citizens of our country to resort to for the purpose of bettering their conditions, acquiring property, and providing for their children. The two great sections of the Union, to

wit, the slaveholding and the non-slaveholding sections, have an equal right to its enjoyment. By permitting slavery in every part of it, the non-slaveholding portion will be deprived of it; if not entirely, certainly in a very great degree. On the other hand, if the people of the South cannot carry their slaves with them when they emigrate, the benefit will be equally lost to them.

We must, then, go on as we have begun; admitting some States with, and some without, any restriction. We have already admitted Louisiana, lying principally west of the Mississippi, without any restriction, for the benefit of our Southern brethren. We have now decided to admit Missouri, with the restriction, with a view, in some measure, I trust, to the benefit of our Northern brethren. Why may we not continue in the same way, admitting States off against the non-slaveholding States, westerly, with the restriction, and off against the slaveholding States, without it.

Gentlemen have said, that people of the North emigrate to the South, and readily assimilate, and become slaveholders; and that the existence of slavery forms no objection. This may be the case, and undoubtedly is, with certain individuals, and particularly such as are able to hold slaves. But it is far from being the case generally. The people from the North, who emigrate, are the industrious yeomanry, who till the earth with their own hands, and are seldom, if ever, able to purchase slaves; and whose spirit of freedom would revolt at the idea of being compelled to work side by side with slaves. For proof of this, look at the States of Ohio and Kentucky. The fertility of soil and congeniality of climate, for agricultural purposes, is in favor of Kentucky; yet you can scarcely find a Northern man in that State; while Ohio is almost exclusively peopled from the North, and has increased in population much faster than Kentucky. There cannot possibly be any other reason for this, unless it is that Kentucky is a slaveholding, and Ohio a non-slaveholding State.

Gentlemen abhor sectional lines of demarcation between the different descriptions of population in the Union, and so do I. When they can be avoided, I would avoid them. But we have them in relation to this subject already. The line is distinctly marked. It is, I confess, one of our misfortunes. But, sir, it is unavoidable. We have heretofore found it necessary and proper to observe it in forming States north of the Ohio, without admitting, and south of the Ohio with, the admission of slaves. Having so begun, we must continue on. And in doing so, we must, as in the case of every other legislative act, exercise a sound discretion, and do that which shall best comport with the demands of the different and varying interests of the different portions of the Union.

I am, therefore, in favor of no restriction in relation to Arkansas, although I was, and still am, in favor of adopting it in relation to Missouri. The settled part of Arkansas will be south of the southerly line of Kentucky. In my opinion, to

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do justice to our Southern brethren, they ought to have permission to carry with them their slaves, even further north. But as Missouri extends south to this line, and we could not admit slavery in any part, and not in the whole, there seemed to be no alternative but to confine the admission of slavery to the south of that line.

The gentlemen of the North need have no fears, I believe, that the slaveholding States will become predominant, and prevent our doing all that it may be proper for us to do to prevent this growing evil. We now have the numerical force; we have a majority of ten or fifteen in the representation on this floor as a guarantee against it. This majority will increase upon the taking of every census. By recurring to the census of 1800 and 1810, it will be seen that the increase is from 25 to 30 per cent. against the slaveholding section. Add to this, that the slave portion of the increase gives but three-fifths of the increase to the weight in this House.

Neither have gentlemen any cause of alarm for fear that the gentlemen of the South will be for the repeal of the law prohibiting the importation of slaves. They have hitherto manifested as much of a disposition to put a final stop to that nefarious practice as could have been wished—and no doubt can be entertained of the steadiness of that disposition.

We have no right to interfere in opposition to the determination of the slaveholding States further than the Constitution has authorized. These States were sovereign, and could make what regulations they would as to slavery. They have delegated to us no other authority than that of prohibiting further importation, after a certain period. It is then an evil which we have not created, nor does it even exist and continue by our permission. We are, in fact, by the most solemn obligation, precluded from the right to molest those States in the exercise of this power. Not having the power to prevent it, the iniquity cannot lie at our doors. There is no ground on which we can demand to be their conscience-keepers. They must answer for the wrong, and not we.

Under this view of the subject, I shall deem it my duty not to vote in favor of the restriction in relation to Arkansas—at the same time I shall go any reasonable length with those who would insist upon the restriction in relation to Missouri.

Mr. TAYLOR, then, for reasons which he stated, modified the amendment, to read as follows:

“That neither slavery nor involuntary servitude shall hereafter be introduced into the said Territory, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted.”

Mr. MERCER, after earnestly, and at some length, supporting his views on this subject, moved to amend the proposed amendment, by adding thereto the following proviso:

“Provided, That nothing herein shall divest the inhabitants of Arkansas of their rights of property in the slaves which they now hold, or the natural increase thereof; nor to entitle to his freedom any slave carried

therein, and held there for a period not exceeding nine months.”

This motion was negatived without a division; and,

The question being then taken on Mr. TAYLOR's amendment, was determined in the negative—yeas 86, nays 90, as follows:

YEAS—Messrs. Adams, Allen, Anderson, of Pa., Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Elliott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jer. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Rugles, Sampson, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Byran, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, Hugh Nelson, Thomas M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Porter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, Samuel Smith, Bal. Smith, Alexander Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

Mr. TAYLOR then, after stating that he thought it important that some line should be designated beyond which slavery should not be permitted, &c., moved the following amendment as an additional section to the bill:

“That neither slavery nor involuntary servitude shall hereafter be introduced into any part of the Territories of the United States, lying north of 36 degrees and 30 minutes of north latitude.”

Mr. LIVERMORE conceived this proposition to be made in the true spirit of compromise, which ought to be met, but suggested a different line.

Mr. RHEA opposed this amendment, and spoke against any amendment or restriction of the sort, as unconstitutional, and inconsistent with the treaty with France, which transferred to us the territory west of the Mississippi.

Mr. OGLE was against the amendment, because opposed to any compromise by which slavery in



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any of the Territories should be recognised or sanctioned by Congress.

Mr. STROTHER thought it would be better to withdraw the amendment, and bring forward the principle in a separate bill, and argued in support of his view of the question.

Mr. HARRISON assented to the expediency of establishing some such line of discrimination; but, for reasons which he explained at large, proposed a different one, by way of amendment to the amendment, as follows:

"That all that part of the present Territory of Missouri, lying north of a line to be run due west from the mouth of the river Des Moines to the territorial boundary of the United States, shall form a part of the Territory of Michigan; and the laws now in force in the said Territory as well as the ordinance of Congress prohibiting slavery or involuntary servitude in said Territory of Michigan, shall be in force in that part of the Missouri Territory lying north of the said east and west line."

Mr. BARBOUR, of Virginia, was opposed to Mr. TAYLOR's amendment, and to all others of a similar character; and spoke with much earnestness against the proposition at some length, as partial and inexpedient; arguing that, if the principle was wrong in itself, (and the question had been discussed on principle alone,) it ought not to be withheld from one part of the Territory and applied to another; that it was legislating partially, by applying a rule to one portion and a different rule to another portion of citizens having equal rights and placed under similar circumstances. If the rule was wrong at the 25th degree of latitude, it was equally so at the 40th. He argued that it was as impolitic as it was unjust to draw this line; it was proper to let a future Congress act on it, as should then appear expedient; and this opinion, as well as others which he advanced, he maintained at some length.

Mr. ANDERSON, of Kentucky, gave the amendment his unqualified disapprobation. It was no compromise—its friends asked everything and gave nothing—what they got now was insured to them, and what they conceded now would not be binding on a future Congress, and the same principle might be extended by hereafter inserting it in the constitution of Arkansas when it should become a State. Furthermore, the principle was contrary to the Treaty of Cession with France, and he could not agree to any compromise, even if it were fairly proposed; all of which views he strenuously enforced.

Mr. LIVERMORE replied, and argued at length to show that the compromise was fair and liberal; also that the Treaty of Cession could not bind Congress in this case, as it was out of the power of the Government to admit States into the Union by treaty; that the Territory was purchased, and it was now competent for the Government to dispose of it in any manner whatsoever, either to sell it, recede, &c.

Mr. BEECHER followed in a speech of near an hour in length, entering into an inquiry into the whole subject presented by the various propositions brought forward.

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Mr. COBB rose to put an end at once to a debate, which he said was disagreeable to one part of the House, however agreeable it might be to the other; and the end of which, if unchecked, could not be seen, as it was impossible to foretell what number of amendments might be presented. He therefore called for the *previous question*, to obtain at once a decision on the engrossment of the bill.

The previous question was refused by the House—ayes 67, noes 74; when

Mr. TAYLOR, having stated that he perceived from the debate, as well as from conversation, that it was not probable any line would be agreed on by the House, or any compromise of opinion be effected, withdrew his amendment.

The bill was then ordered to be engrossed, and read a third time.

SATURDAY, February 20.

Mr. RICH, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Rees Hill," reported the same without amendment, and the bill was committed to a Committee of the Whole, to which is committed the report of the Committee of Claims, made at the last session, on the case of Mary Sears and William B. Stokes.

Mr. HUBBARD, from the Committee on so much of the Public Accounts and Expenditures as relate to the Post Office Department, made a detailed report, accompanied with sundry documents and statements, which were received; when Mr. H. reported a bill, to amend an act, entitled "An act regulating the Post Office Establishment," passed the 30th of April, 1810; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to which was referred the amendments proposed by the Senate to the bill, entitled "An act regulating passenger ships and vessels," made a report on the said amendments; which was read, and ordered to lie on the table.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of Ruth Reed; which was read; when Mr. J. reported a bill for the relief of the heirs of William Reed, deceased; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. JOHNSON, from the same committee, also reported a bill in addition to an act, supplementary to an act, entitled "An act for the relief of Thomas Wilson;" which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. PLEASANTS submitted a joint resolution prescribing the manner in which the vessels of the Navy of the United States shall hereafter be named; [directing that all public vessels now building or to be built, shall be named by the Secretary of the Navy, under the direction of the President, according to the following rule, viz:

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Ships of the first class to be called after the States of the Union; those of the second class, after the Rivers of the United States, and those of the third class, after the principal Cities and Towns; taking care that no two vessels in the Navy bear the same name.]

The resolution was twice read, and ordered to be engrossed for a third reading to-day.

The House resumed the consideration of the bill from the Senate supplementary to the acts concerning the coasting trade; and the amendments to which were ordered to be engrossed, and, with the bill, to be read a third time.

The bill establishing a separate Territorial government in the Arkansas Territory was read the third time, and passed.

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The House then again resolved itself into a Committee of the Whole, on the subject of the Bank of the United States, the motion to repeal the charter of the bank being still under consideration.

Mr. LOWNDES, of South Carolina, said, that the gentleman from Virginia, (Mr. PINDALL,) who had last addressed the Committee, had discussed the policy of the law which chartered the bank, the motives of Congress in passing it, and those of the Executive Government in the measures which had been adopted for carrying it into effect. He would not enter into these topics. The subject was large enough, without digression, to occupy their whole attention for the time which it would be reasonable to appropriate to this debate. If the reputation of the fourteenth Congress, or of the late Administration, could be impaired by observations or circumstances like those which had been adduced, he would say of both, that they were not worth defending. In the course of his remarks, indeed, it was not improbable that he might advert to facts which would repel the conclusions of the gentleman from Virginia, but he would not deviate from the strict line of his argument, to engage in so useless a controversy.

The committee, of which he had had the honor to be a member, had expressed an opinion, in respect to the first operations of the bank, correct enough, perhaps, in its general principle, but erroneous, as it seemed to him, in its application. They say, "that the bank could have proceeded gradually, growing with the growth, and strengthening with the strength of the nation, as it emerged from the evils of the flood of paper issued from the local institutions. The bank could have felt its way, and increased its means with the increasing demands of the country. Such a cautious proceeding would have enabled it to render invaluable service in checking the issue of State banks, and bringing them to the alternative of avowed bankruptcy or to the permanent resumption of specie payments." He was not disposed to deny, that, while a discredited currency was circulated through the country, while the excessive issues of bank paper (of which the war had been the cause or the apology) con-

tinued to resist the introduction of real money, the committee were right in supposing that it was the interest of the National Bank to commence its operations slowly, or to postpone them. It was its interest to leave it to the Government to fight the battles against depreciation, and to come in afterwards as a partaker of the victory. Even after the 20th February, 1817, the bank might have pursued the cautious policy of withholding its accommodations from the Government and the people, until the reduction of other paper had made its issues necessary and safe. It might have preferred its interest to its duty. The State banks, unable to comply with the requisitions of Congress, which demanded from them the resumption of specie payments, must have lost their credit with the community. The Government, indeed, might have been embarrassed, the public debtors distressed, and the State institutions have been brought "to the alternative of avowed bankruptcy," but these competitors for public favor and employment would have been removed, and the National Bank would have entered into the full enjoyment of the monopoly which the ruin of every other institution would have prepared. This might have been its interest. But there were other interests to be consulted—those of the Government and the people. The bank had not been established for the purpose of giving to its stockholders the harvest which such a policy might provide. It was the instrument by whose use he hoped to secure the resumption of specie payments—constructed, not for its own sake, but for ours. The act of the Legislature and the proceedings of the Treasury Department would show how incompatible with the objects of its institution would have been that postponement of its operations, or that gradual commencement of them, which was recommended now, when the difficulties of the time were forgotten. The fourteenth Congress was aware that a narrow view of its exclusive interest might induce the National Bank to adopt the policy which the committee had described. The act which they passed provided that, as soon as the amount of the first subscription (\$8,400,000) should be received, the bank should thenceforth commence and continue its operations. The twenty-second section reserved to Congress the power, if it should not go into operation before the first Monday in April, (at which time the third instalment was not due,) to declare its charter void. This was the measure of the Legislature to secure the early operation of the bank. Those of the Treasury Department were in entire consonance with its principle.

He must ask the indulgence of the House while he read some extracts from two letters of the Secretary of the Treasury. In a letter to the commissioners for receiving subscriptions, (dated August 15, 1816,) the Secretary says, "It is, indeed, of high importance to the people, as well as to the Government, that the Bank of the United States should be in an organized and active state before the 20th of February next, when the paper of the State banks which have

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'not returned to metallic payments must be rejected." Again:—"It is believed that the Bank of the United States may be in operation before the first day of January next," (before the receipt of the second instalment.)

Mr. Crawford (who, after the date of the last letter, had succeeded to the office of Secretary of the Treasury) writes, on the 29th of November, 1816, to the president of the bank, that "if the State banks do not make a simultaneous effort, it is manifest that, without their co-operation, a national currency, equal to the indispensable demands of the community, cannot be obtained by the 20th of February next." He asks whether "it is possible for the bank to supply the demand of the commercial cities which the collection of the revenue arising from imports and tonnage will create in the interval between the 20th of February and the 1st of July." He suggests that it may be necessary to employ "a Government paper of some description" in that interval, but adds, that "it is most ardently desired by the Government, that the necessity of resorting to the issue of Government paper may be avoided by the resumption of specie payments by the State banks, on or before the 20th of February."

The first object which the Government expected to be attained by the National Bank, was that of throwing into general circulation, by the 20th of February, an amount of notes sufficient to enable the public debtors to comply with their engagements. When it appeared impracticable that the amount or dispersion of these notes should provide for the object, the next resource was to give to those of the State banks a credit which should enable the Treasury to receive them under the resolution of Congress. These banks had refused every proposal for the resumption of specie payments. He would not say they were unwilling, but they were afraid to adopt them. The remonstrances and encouragement of the Government were unavailing. It was then that the National Bank, certainly not in the spirit of narrow jealousy, entered into that compact with the State banks which had been referred to by the gentleman from Virginia. It was impossible to do justice to the conduct of the National Bank, at least for the first year of its operations, without attending to the new obligations in which this compact involved them. Proposed by the Executive Government, and sanctioned by it—required by the interests of the people, and necessary to the credit of the local institutions, there could be no other objection to the act than that it accorded better with the public interest than with that of the stockholders. Under this compact, the bank became bound to discount six millions (exclusive of revenue bonds) before the 20th April, and to sustain, with its unbroken credit and its whole capital, every bank which joined in the arrangement. The effect of this compact was not only to force the bank into earlier operation than a selfish policy might have recommended, but to oblige it to renounce the resource which the State banks might have afforded for

the supply of specie. South of New England there was no specie in circulation. The National Bank had engaged to support the credit of the State banks, and, if it produced a demand of their specie, it was bound to aid them by the loan of its own. He made these observations very much with a view to the conduct of the bank in affording facilities for the payment of the instalments upon its stock. But he did not mean yet to engage upon that topic. A necessary consequence of this compact, the committee would see to have been, that, if a large amount of specie was necessary to the operations of the bank, it could be obtained only from foreign countries. Its importation might have been trusted to the gradual contributions of trade, and he believed it would have been better to have been so. But the error of judgment, if it was one, which consisted in the bank's importing specie from abroad, had no character of bad faith. Perhaps it was unnecessary. If it were necessary, it resulted exclusively from a compact which interdicted all reliance upon the specie of the State banks.

If the committee, then, should determine that the early operation of the bank, and its importations of silver, were both of them injudicious—at least they would say that neither was criminal. Perhaps the effect of both was injurious to the stockholder; the country had no right to complain of them. But the second article of the compact had drawn down the severe animadversions of the gentleman from Virginia, (Mr. PINDALL.) He had considered it as obliging the State banks to pay interest for public balances transferred from them to the National Bank, although the National Bank had not undertaken to pay these balances to the Government in its own notes or specie. In other words, he had supposed that the National Bank received interest from the State banks on what had been called the special deposits of the Government. He had admitted it to be fair and right that the bank should receive interest on all balances transferred to it, for which it gave a general credit, and which might at any moment be drawn from it in coin. Now, Mr. L. said he did not hesitate to affirm that these were the only balances on which interest had been received or claimed. There was in the sentence which had been read a little ambiguity, (which would have been avoided by introducing the parenthesis before the five words which now preceded it,) but this error in style was no serious crime; and the meaning of a compact, which had been carried into effect without objection by either party, was best ascertained by its execution.

Among the errors of the bank, in its first operations, one of the greatest, as it appeared to him, had not been censured by the committee. He alluded to the attempt to pay the notes of the bank and its branches at any office at which they should be presented. The committee had said that "the relinquishment of this attempt was involuntary and reluctant;" but the attempt itself, though directed to the promotion of the public convenience, and urged by the public wish, had produced so much embarrassment and injury, that any

exposition of the conduct of the bank must be very defective in which the effects of this injudicious scheme were omitted. He hoped not to be suspected of enlarging upon this subject for the purpose of supporting a favorite theory. Its examination was necessary, because it had produced much of the mischief which had been attributed to other causes. He should not have to argue that the bank was not bound to pay its notes indiscriminately at all its offices. He believed that nobody now contended that it was. He should not inquire how far it could be practicable so to pay them. His proposition was, that the attempt, while the situation of the country made it practicable, would even then be embarrassing and injurious.

In every system of bank circulation, the regulation of the amount of discounts and issues is a point of the utmost importance. In banks which redeem their paper by specie, the restraint upon excessive issues consists in this, that the superfluous paper is thrown back upon the bank and its specie withdrawn. The directors of a bank, with very little knowledge of the principles of circulation, and little information as to the currency of other States, are in this way controlled in all their operations, by a principle which proportions the circulating money of the country to its real business. He did not mean to inquire whether other or better regulations of the amount of paper in circulation might be adopted. We had no other. But how were the discounts of a branch bank restrained, under the system which provided that the notes which it issued should be redeemed at every office throughout the United States? If the balance of exchange were unfavorable, (and a profuse discount might at any time make it so,) it would be the interest of every man who got possession of a branch note to send it to a State where the exchange was high. A bank note is an order for the payment of money; and if the holder has the option of drawing this money at different places, he will draw it there where money is most valuable. If the discounts of Lexington were larger than the business of the place required, and the notes which were issued there were redeemable nowhere else, the bank at that place would immediately discover its error by the drafts upon its specie, and its discounts would be accordingly contracted. But if the notes of the Lexington branch are payable at New York, however profuse may be its discounts, the directors themselves discover, within the limits of their observation, no inconvenience from their liberality. They have lent only to those whose possessions are sufficient to secure the payment of their debts, the specie in their vaults remains untouched, and the income of the institution is increased by the large amount of their loans. In New York, indeed, if we suppose the exchange to be in favor of that place, the operation of the system is quite different. There, however prudent may be the bank in limiting the amount of its discounts, the increasing demands of the holders of Lexington paper exhaust its resources, and force a still further reduction of

its discounts. Wherever the state of exchange is unfavorable, wherever the just principles of banking require a reduction of discounts, there, under this system of indiscriminate payment of its notes, the bank has nothing to fear from a draft of specie, and is encouraged to lend to every applicant. Wherever the state of exchange is favorable, and on the sound principles of banking an enlarged accommodation might be given to the community, there the flow of notes, from every State whose exchange is unfavorable, contracts or suspends all the operations of the bank. Thus, wherever discounts should be enlarged, the tendency of this system is to reduce them, and to enlarge them wherever they should be reduced.

It may indeed be said, that the directors of a branch bank, where the exchange is unfavorable, may contract their discounts, although no specie is drawn from them, because they well know that they might otherwise produce a pressure upon distant banks. This is to suppose that calculation of inconveniences to a distant branch will produce the same result which the sense of them, in their own bank, would produce. It may be said that the parent board, at least, will discover and correct the error, and that when the excessive issues of one branch have forced those of other States to redeem their notes, the controlling board will direct a transmission of specie from the debtor bank which will restore the balance. And all this the parent board will attempt to do. They will endeavor to remedy the irregularities which a better system would have avoided; they will direct, as the directors at Philadelphia have continually done, what the amount of discounts for their distant branches shall be—their orders will often be injudicious, and oftener ineffectual. It was no unfair account of the practical operation of the system of which he was speaking, to say, that it gave to the branches, where the exchange was unfavorable, the entire disposition of the specie of those branches where the exchange was favorable. Upwards of six millions of specie have been sent to the branch of New York, besides the amount which has been paid by the subscribers of the bank there; but, in issuing notes, which the bank of New York has been obliged to redeem, every branch throughout the country has drawn upon a fund, with whose condition, at the time, it could not be acquainted.

Such a system might be expected to produce inconvenient changes in the distribution of bank capital, an extreme facility in obtaining loans at one time, and unexpected contractions of discount at another. But it had been eighteen months in operation, and if his views were at all correct, the experience of the bank must exemplify and prove them.

The embarrassing effect of the system was developed in Boston, as early as March 17th, and in less than three months after, in New York; but he had not time to trace its history. An extract from the letter of the president of the Boston branch (March 19, 1818) to the president, Mr. Jones) would confirm some of the observa-

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tions which he had made: "When the State banks were discounting here, though not largely, this bank called in, from its debtors, but, thirty per cent. regularly; this placed them in a better state; by reducing their sums discounted, considerably, they acquired a balance against the other banks; but this only induced a call from the State banks on their debtors; the result is that, as they operate upon their whole system, they have a remedy. But this branch has the mass of paper thrown out at an opposite extreme to provide for, which it cannot, in any case, have the wished for information. On Monday last the bank made no discount to be mentioned, nor had they so done for many weeks previous. They had a balance of \$93,000 against the other banks in town, and in specie about \$23,000. Tuesday took from them about \$30,000 and Wednesday about \$50,000, and it followed that, as a great proportion of this is in Southern bills, produced by the scarcity of money here, this must produce a demand which the specie of the bank, and its balance against all the other banks in the town would not half discharge."

The effect of the system of paying the notes of the branches everywhere; in reducing discounts where the exchange is favorable, and enlarging them where it is adverse, is exemplified by a comparison between the discounts of New York, and those of Kentucky and Ohio. In November, 1818, the discounts in New York were \$1,685,874; those in Kentucky, \$3,221,450; and those in Ohio, \$3,383,790; including, in the two last States, the debts which were due from banks which paid interest for them. Thus, the two agricultural States of Kentucky and Ohio have discounts from the National Bank to the amount of more than six millions and a half, or excluding stock notes from the calculation, about one-fourth of all the discounts made by the bank throughout the United States.

It could not be necessary to enlarge upon the objections to this unequal distribution of the capital of the National Bank. But a notion has prevailed, that, in respect to the Western States, the capital employed there has been only that which has been furnished by the deposits of the Government. He regretted that the directors of the National Bank, who had had it fully in their power to remove this prejudice, had hitherto neglected to do so. Mr. L. read many extracts from the report of a committee, lately made to the House of Representatives of the State of Ohio, in all of which, the assertion was made that the National Bank had carried no capital to the State, but had been supported principally, and almost entirely, by the deposits of the Government. Very different was the fact. He had on his table a calculation (deduced from statements contained among the documents which had been published) by which he endeavored to infer the amount of drafts and notes from the offices of Kentucky and Ohio, which had been paid in the Atlantic cities, beyond the amount which those offices had paid on Atlantic drafts.

This amount, he was confident, exceeded five millions and a half. He would be glad if any gentleman disposed to inquire into the subject would examine the paper. But no specie, it is said, was carried to Ohio and Kentucky. If the branches in those States had wagoned five and a half millions of dollars across the mountains, and then lent them to individuals, who had sent them out of the State for the purpose of merchandise, or the payment of debts, it would be admitted that a capital to that amount could have been transferred to the Western country. The bank did not do this. Instead of carrying the specie to Ohio and there lending it, the specie remained in the Atlantic States, and the citizens of Ohio obtained, not indeed silver in the first instance, but drafts and notes, which were sent to the Atlantic cities, and there drew out silver. If it had been proposed to the directors at Philadelphia, at the establishment of the bank, to employ this enormous capital in the Western States, they would not have consented that a fourth of it should be so engaged. But the unfortunate system which he had endeavored to explain had led gradually, and almost without observation, to a distribution of capital which otherwise could not have been granted, nor even asked. The directors of the western branches had not incurred the imputation of speculation or of collusion with speculators; the amount of stock pledged, and even owned there, was not large, and yet it was there that the amount of discounts was most excessive. The discounts of Kentucky and Ohio he had stated as amounting, in November, to more than six and a half millions; those of Baltimore, at the same time, were less than nine and a half millions, a much less amount than the other, comparing the business of the two. These western discounts were the greatest impediment to the successful administration of the bank. One of the most important duties which it behooved the directors to fulfil was that of making a better distribution of their capital. But many years must elapse before the discounts of the two States which he had mentioned could be reduced within their proper limits.

He had just received a copy of the memorial of delegates from the banks of Ohio to the Legislature of that State, and was glad to find that they began to understand the mischiefs which the indiscriminate payment of the National Bank notes was calculated to produce in the States whose exchange was unfavorable. [Mr. L. read a paragraph from the memorial which explains the injury which that practice occasioned, as it supposes, to the State of Ohio.] If the bank had refused payment of the notes of its branches, from the commencement of its operations, the memorialists insist that more of its paper would have circulated in the country. He hoped that the Committee would excuse him for having so long dwelt upon a topic hardly noticed in the report, but he had thought it important to show how large a part of the complaints against the banks resulted from a practice which must be considered as an error, not a fault, which had

been entirely abandoned and which it was extremely improbable that any future board of directors would renew.

Mr. L. next adverted to that part of the report of the select committee which condemns the arrangements which were made for the payment of the dividends upon bank stock in England. The committee "do not undertake to decide how far it was objectionable to afford inducements to foreigners to become interested in our stock." "But, thus to compel American stockholders, and the Government, to contribute to the possible loss of paying the dividends to those abroad appears (they say) to be unjust." He thought that a very short inquiry would lead the Committee whom he addressed to a different conclusion.

The arrangement in question involved two considerations. Ought the National Bank to deal in exchange, and were the terms on which it sold bills to "the stockholder abroad" fair and advantageous? It was very plain, that, to make an arrangement with the foreign stockholder, by which it was stipulated to make the payment in England at par, six months after the dividend was declared, was substantially to sell at par bills payable six months after date. Ought then the bank to deal in exchange? It is the business for which the charter specifically provides; it is perhaps for the country one of the most useful operations in which a National Bank can be engaged—its appropriate duty. It would do very well, the committee seem to think, if it were not for "the possible loss" in the transaction. And in exchange operations there is certainly some risk. In the case of the bank, the sale of bills implies the purchase of them, and bills may be protested. But the risk of the transaction was as good a reason against discounting notes as purchasing bills. He could not think, then, with the committee, "that it was unjust to oblige the American stockholder to contribute to the possible loss," while he was to share in the probable gain "of paying dividends to those abroad."

But were the terms unreasonable? If the bank deals in exchange, is the sale at par of its bills, where they are payable six months after date, or four months after sight, a sale for too low a price? Let an examination of the usual state of exchange decide the question. An examination of exchange, since the bank had gone into operation, might be objected to as furnishing no fair criterion of the prudence of the measure. Its state might have been accidentally favorable. But he held in his hand two statements of the annual gain and loss by exchange in the payment of our debt in Europe; by the one of which it appeared that the whole gain, after deducting occasional losses in remittances for the Dutch loans, from 1791 to 1809, inclusive, was upwards of two hundred and sixty thousand dollars; and by the other, that the gain, after the same deductions, under the operations of the Commissioners of the Sinking Fund, from 1802 to 1817, inclusive, was upwards of three hundred and fifty thousand dollars. The average price, then, which the Government had paid for its bills, in a period

of twenty-six years, had been considerably below par. If the bank then had engaged to sell bills at par, it would have had reason, from the experience of twenty-six years, to think that the arrangement would be a prudent one; but, upon a fair estimate of the time which it gained, its price must be considered as being about one per cent. above par.

But the committee suppose "that the *able reasons*" assigned in the report of the committee (of the bank) against the measure "should have prevented its precipitate adoption." Mr. L. said that there were but two sentences in the report which referred at all to this subject. He read them, and asked whether the intimation that the existing unfavorable balance of trade alone influenced the "committee to decline the unqualified recommendation of such an agency" was considered as furnishing the "*able reasons*" in condemnation of the measure? In truth there was no reasoning in the report. But the authority of the committee was decidedly favorable to the general propriety of the measure which had been adopted.

Among the objections urged by the committee (of which he had had the honor to be a member) against the conduct of the bank, some of the most serious were those which regarded the amount and character of its discounts. He concurred with some of the views of the committee upon this subject. He did not now mean to speak of discounts given to enable the discounters to pay his instalments upon stock. But, without reference to the object for which they were employed, the discounts, with a pledge of stock, were, many of them, as the committee had stated, "excessive in amount." While a pledge of stock is fairly employed as a mere substitute for personal security, he would not say that, even when valued at twenty-five per cent. advance, it might not be safe to the bank, as well as convenient to the merchant. As a mere substitute for personal security, it would imply that no discount would be made on it to an amount which would be refused to the same drawer with a common endorser. But many of the stock loans were so large that the pledge of stock lost its character of mere collateral security. When a loan for a million of dollars is secured by a pledge of stock, it was obvious that the stock was not considered only as a fund to supply any deficiency which the possible insolvency of the drawer might produce, but was the principal and almost the only foundation of the loan. The same loan would indeed be much more objectionable with the security only of an endorser.

There were expressions in the report which might be construed to imply a partiality in the distribution of these loans, which perhaps it was not designed to convey, and which, as it seemed to him, the evidence would not support. It was said that the loans "were not made"—he understood that the committee meant to say that most of them were not made—"to the merchants and traders," but to a few persons, consisting of directors, brokers, and speculators. It was diffi-

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cult for him—a stranger at Philadelphia—to pronounce sentence on the character of those who had borrowed money on a pledge of stock. Of the whole number, he knew personally but two or three, and neither of these were speculators or brokers. The committee had selected the names of fourteen, and had obtained evidence of their employments in life—seven were merchants, five were brokers, and two could not be classed in either list. Mr. McEuen's testimony, which has been published by the committee, contains his "opinion that a considerable proportion of discounts on pledged stock, was for the benefit of merchants, and not of speculators." Major Butler says, that "he has never known any good paper refused on account of the amount of stock notes offered."

It is said in the tenth page of the report that "not an instance has occurred of a note secured by the pledge of stock being rejected." If the merchant and trader then had not their share of the loans, it was only because they did not apply for them. The partiality in their distribution was not to individuals, professions, or parties: merchants, farmers, and artisans, obtained those discounts whenever they wished them. The *partiality* was to the whole body of holders of bank and funded stock throughout the United States. He believed there was not an instance of a note secured by a pledge of funded stock being rejected.

While his judgment led him to the conclusion that many of the stock loans were highly objectionable, from their amount, he thought it fair to add the view which had satisfied his mind, that a considerable proportion of those loans was necessary. He should have occasion, in another part of his remarks, to examine the state of exchange between the United States and other countries since the establishment of the National Bank, for the purpose of showing that the whole amount of its discounts was not excessive, although their distribution was unequal. But he wished now only to apply the test which the rate of exchange, as he thought, furnished, in an inquiry into the propriety of the discount operations of the bank in Philadelphia, in the months of July and August, 1817, when the amount of stock loans first became considerable. From the statement which he held in his hand, it appeared that the exchange with the principal countries of Europe continued, with very little variation, nearly at par during the time. This fact was incompatible with the supposition of an excessive circulation. The whole amount of notes, with a pledge of stock, discounted in Philadelphia in July and August, 1817, was about six millions and a half. The committee think it "singular" that at this time "any business paper should have been rejected." The whole amount rejected, was less than one million and a half. Supposing this sum to have been discounted, whether the parties were insolvent or not, and the stock notes rejected, the amount of discounts in Philadelphia, in two months, would have been less by five millions than it actually was. Of

these five millions, a part (he did not know what part) was employed for the payment of subscriptions to the bank, and did not add to the amount of money in circulation. Suppose half to have been so employed, and a reduction of two and a half millions in the circulation of Philadelphia, below the amount which kept its exchange at par, would have suspended mercantile business, and spread embarrassment and distress through every town in the State. He appealed to gentlemen whose business or curiosity had led them to observe the effects which even an inconsiderable change in the quantity of money produces in a commercial community, to say whether there was anything visionary or extravagant in this view.

It had been alleged as an excuse for the magnitude and permanence of the loans which were made about this time by the bank, that the redemption of its stock by the Government had made it necessary that it should invest the State bank paper, which it was paid in, in some other securities. He must, however, observe, that the embarrassment of the bank, from the accumulation of the paper of State banks in some parts of the Union, did not originate in the measure to which it had been exclusively attributed. Its own errors were a principal cause. As early as March, 1817, it suffered, from a deficiency of resources, at Boston; and three months afterwards, in New York; while a large amount of balances against the banks to the South and West of those places had accumulated, even at that early period of its operations.

The observations of the report on the subject of post notes, Mr. L. thought liable to misconstruction. After referring to several transactions in which post notes were received by those who had obtained discounts, it is observed, "that not being drafts on other offices, they cannot be considered as exchange operations." Now, every post note but one, to which reference was made in the report, was "a draft upon another office." The resolution under which they were given, would be found among the documents, (page 92.) They were post notes of the bank at Philadelphia. They were obtained by those who got discounts at Baltimore. This appeared to him, therefore, to be a simple case of exchange.

The case of the post notes mentioned in the first part of the paragraph, was different. The post note was payable in the same place in which the discounted note was payable. There was, too, some ambiguity in the resolution for granting the discount, and it might possibly be inferred, if we had no other evidence, that it was a condition of the loan, that a post note, payable sixty days after date, should be received by the discounteer. But had we no other evidence? Mr. Smith swears (documents, p. 114) that "post notes at sixty days date, have frequently been issued on the application of persons who have had notes discounted, but it has never been the condition of the discount." To every man who knows what post notes are, their convenience to mercantile men, and indeed to society generally,

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can require no explanation. A post note of the Philadelphia bank is better than a bill of exchange upon Philadelphia. If the exchange with New Orleans is in favor of Philadelphia, a merchant who wishes to make purchases at Orleans will find a post note of Philadelphia, or a power to draw upon it, among the best means of accomplishing his object. Bank notes, indeed, might answer the same purpose; but, as they are payable to bearer, the risk in their transmission is greater. In the instance referred to in the report, the bank had no possible interest in preferring the issue of post notes to bank notes, because the distance of the place to which the notes were to be sent, was an effectual security that bank notes would not have returned upon it within sixty days.

Mr. L. said that he had detained the Committee very long on topics which he did not consider likely to affect the decision of any of the resolutions. But he had feared that, if the opinions of the select committee, on some of these points, had passed without objection, they would be considered as having received the sanction of the House.

He came now to the question which he supposed should chiefly engage the attention of the Committee: How far has the bank answered the great object of its institution? If, as a measure of policy, the dissolution of the charter would be unwise, Congress would not dissolve it, even though such a penalty were just, and such a proceeding legal.

The great object of Government in chartering the bank, was to provide a currency which should have that degree of stability and uniformity in its value, which is required by the interests both of our commerce and revenue. A currency equally valuable at every place and every time, cannot be provided by human wisdom. The nearest approach to this object has been generally supposed to be afforded by the employment of gold and silver as the measures of value. The 14th Congress did not aim at ideal perfection; they wished to combine with the conveniences of bank circulation an uniformity of value equal to that which was possessed by the precious metals; and the means which they employed to secure this uniformity were simple and effectual, by enjoining, under a heavy penalty, the payment of all its notes in coin, upon demand. In the report, indeed, the notes of the National Bank are said to be now "on the same footing with those of local banks." Of the footing on which local bank notes stood, he should speak hereafter; but the price current upon his table informed him that the greatest discount on branch notes of the United States, was  $\frac{3}{4}$  of 1 per cent. This was a value much more uniform than that which coin could be expected to have in so extensive a country. He had been lately looking into a book on political economy, which had been published here, with high, and, in respect to its clearness and precision, with just commendations—the work of Mr. Tracy. He inferred from one of his chapters, that the difference of exchange be-

tween Marseilles and Paris, was often from 2 to 3 per cent. If, with all the facilities afforded by the internal improvements in which France is so rich—with a currency consisting almost exclusively of gold and silver, the variation in the value of money is three times greater in her territory than on our continent, can it be said that, in this respect, the bank has not fulfilled the objects of its institution? Before its establishment, the value of bank notes, even in the commercial States, had varied 20 per cent. from each other, and, as none of them bore a fixed proportion to the precious metals, or to any natural standard, it was impossible to assign any limit to their depreciation. You have required that the currency furnished by the National Bank should be everywhere convertible into silver, and it is so. You have expected that it should be as uniform as coin, and it is more so. He would not detain the Committee by reading a paper which he had prepared with that intention, containing the state of exchange, since the establishment of the bank, with England, France, and Holland; for he found himself occupying much more of their time than he had expected. But he believed that any member who should turn his attention to the subject, would remark its steadiness during that period. He thought himself justified in drawing from this fact a conclusion highly favorable to the bank—that the whole amount of its discounts had generally been nearly right. The distribution of those discounts he had admitted to be wrong. It was the total amount of discounts which a spirit of eager and intemperate speculation would be most apt to enlarge. It was the total amount of discounts which a just regard to the stability of our money made it most important to restrain.

The correspondence of the bank with the western branches had been adverted to in the report of the committee. Mr. L. thought that it illustrated the general views which he had submitted of the subject. He read the 5th and 6th rules prescribed for the government of a western office, (documents, p. 29,) to show that the orders of the parent board were sufficiently energetic. The method of securing their execution by orders directly issued to their cashier, showed no want of decision. But the system which encouraged the board to extend its discounts by paying its bills in the Atlantic cities, and then aimed at reducing them by orders from the mother bank, was radically wrong.

To do justice to the conduct of the bank, and fairly to estimate its services in maintaining specie payments, it was proper to consider the peculiar difficulties of the time. He would not enter into the inquiry how far the payment of a large public debt must add, in every country, to the difficulties of banks of circulation; but, confining himself to the payment of about five millions of the Louisiana debt in one year, he would ask whether a remittance of this amount to foreign creditors must not press heavily upon the resources of a National Bank? Its arrangements, indeed, had been such as to relieve the country from much of the embarrassment which might



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have been anticipated—such as to illustrate very strikingly the advantage which a National Bank may produce in the management of exchanges. By becoming the agent for the remittance of the principal part of the debt, it has been able to conduct, without much inconvenience, an operation which might otherwise have produced a pressure upon the whole banking interest of the country. Among the difficulties of maintaining specie payments, the extraordinary extension of our trade to the East Indies could not be overlooked; and the demand for the precious metals in Europe, which resulted from the attempt by so many nations which, during their late wars, had used only paper, to recover specie circulation, was felt on this side of the Atlantic. Among the effects of paper money, that of its making the value of the metals more variable, even in countries which do not use it, must be obvious to the Committee. The employment of paper in any country causes its specie to be exported, and, adding to the supply of that article in foreign States, reduces its value there. The restoration of specie currency, by opening a new demand for the article from other countries, enhances its value there. Such is the process which is now going on in many parts of Europe. The diminution in the supply from the South American mines will be considered as exerting a less questionable influence on our stock of the precious metals. It was in opposition to all these difficulties—in defiance of the discontent which contracted discounts must have been expected to produce among its debtors, and a reduced dividend among its stockholders, that the Bank of the United States performed its great duty—that of maintaining specie payments throughout the whole extent of this country.

The safekeeping of the public deposits, which implies their prompt payment in specie upon demand, must appear particularly important to a Government whose losses have hitherto been so heavy as ours from the want of this provision. Even now, after the immense amount of paper which had been assumed by the National Bank, there remained, he believed, more than \$500,000 of bank paper belonging to the Government, of which it had lost the use from the war to this time; of some of which he was very certain that it would lose even the principal.

The bank is admitted to have fulfilled the duty of transmitting the public money, without charge, wherever it might be required. He believed that the answer to the resolution of his friend from Virginia (directing an account of the money so transmitted) had not been received, and he was sure that, when received, it must be imperfect and unsatisfactory. The account must represent each office as receiving the amount lodged there, whether in its own bills or any other; and, in practice, a large proportion of the bills which are paid where exchange is most favorable, will be those of the States whose exchange is most unfavorable. For example, a large proportion of the revenue accruing in Boston will be paid in the notes of Ohio. That the transmission of money on account of the Government must be

very considerable, even in time of peace, must be true, unless the expenditure of the country in each little district be supposed to be nearly equal to the revenue collected there. But the revenue and expenditure may be exactly equal—let us suppose that to be the case in Boston—and yet the bank may have to transmit for the Government the whole amount of such expenditure—that is, it may receive, upon the supposition which has been made, the money of Ohio, and pay to the Government Boston money. But, although the advantage was very considerable in peace, it was, by considering its effect in war, only that we could estimate its real magnitude.

If the direct duties which the bank owes to the Government have been fulfilled, he would inquire how far the institution had furnished those accommodations to public debtors, which had probably been expected from it? These accommodations were of two kinds—by its loans, and by the general circulation of its paper.

There are two sentences in the report, which seem to intimate that the loans to public debtors, by the Bank of the United States, have been inadequate to their just expectations. The report represents the Northern offices as compelled “to deny to the debtors of the Government any indulgence or accommodation in their payments;” and in another page it states that “it does not appear that the notes of those who had revenue bonds to pay have at any time been discounted extensively.” He considered this quite as a minor subject of attention; but he would state the evidence as it had appeared to his investigation.

In the very commencement of the operation of the bank, (on the 3d of January, 1817,) the board resolved that notes for those who had revenue bonds to pay should be discounted, and might be paid in the paper of other banks, while of the small amount of the notes discounted the whole were to be paid exclusively in specie. On the 9th of January a resolution authorized the offices to discount notes for revenue bonds, at a time when they had not commenced any other business. On the 4th April, 1817, when the board was obliged to limit its discounts everywhere, it directed a preference to be given to custom-house bonds. Thus we had proof that in the first business of the bank, a preference had been given to the notes of Government debtors, that the preference continued when circumstances required a general limitation of discounts; and if this was the case when the bank was straitened, it would be extraordinary indeed that it should be less liberal at other times. Nor did he know anything to countenance the opinion that it was so.

Perhaps we might infer something as to the disposition of the bank to extend its accommodations to the public from the order in which its first loans had been made. It was then that it must have been most penurious and reluctant in its discounts. Its first loan made before January, 1817, was one of \$500,000 to the Government. In Philadelphia it loaned in January, 1817, \$182,642 to stockholders, and its next loans were \$293,502 to those who were indebted on custom-

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house bonds. Indeed he remembered no evidence of a discount being at any time refused on the notes of custom-house debtors. And Major Butler's testimony, of which he had already spoken, had not been impugned by that of any other witness. The Committee would recollect the statement, "that he had never known any good paper refused on account of the amount of stock notes offered."

The Committee probably remembered a sentence in the letter from the Secretary of the Treasury, which he would read before he dismissed the subject. "The bank has promptly transmitted the public money wherever and whenever it has been required to perform that service. It is presumed that the facilities expected from it in the collection of duties have been furnished, as no information has been received at this Department, stating that such facilities have been withheld."

Such was the evidence "as to the indulgence or accommodation to the debtors of the Government" by the bank, or such it appeared to him to be, of evidence which might lead to a different conclusion, he knew *none*.

But the more important accommodation to public debtors, which was expected from the National Bank, consisted certainly rather in its supplying a currency which the Government engaged everywhere to receive, than in loans to which, under common circumstances, the State banks were quite adequate. How had this duty of supplying a national currency been performed? Of the inequality in the value of the National Bank notes, he had already spoken, and he hoped that he had satisfied the Committee that it had been less than had been expected at its institution. He had not heard the entire amount of notes thrown into circulation represented as deficient. Their distribution he had admitted to be bad, and had endeavored to explain the principal cause of its being so. But the loudest complaints against the bank on account of a deficiency of its notes were from the States in which the most disproportionate and excessive issues had been made. He read a paragraph from the report of a committee of the House of Representatives of Ohio, in which they characterize the proceedings of the bank in requiring that payments should be made in its own notes, as little better "than insulting mockery." It might seem that, wherever bank notes which the Government engaged to receive in taxes might be issued, they would be carried to any part of the country in which they were necessary for the payment of public debts. The foreign merchandise which is landed in New York or New Orleans is conveyed wherever there is a demand for it. And the credit or produce which enabled any section of the country to obtain foreign merchandise would be quite as effectual to procure bank notes or specie. But it was not necessary that Ohio, which perhaps complained most of the want of National Bank notes in its circulation, should have imported them from other States. In Kentucky and Ohio individuals had discounts

to an amount exceeding five millions of dollars; they had received this amount in bank notes or in credits equivalent to notes, and for which notes might have been obtained; but they had them no longer. The complaint, then, was this: not that the bank had not furnished a sufficient circulating medium to Kentucky and Ohio, but that it had not retained it there. Could the bank have prevented its remittance to other States? The States to which its discounts had been largest, had chosen to employ them in the payment of former debts or the purchase of merchandise. He believed that there was a fund of justice in the people of this country, which would not allow them to consider the bank as responsible for the mischiefs which an improvident use of its discounts may have produced.

Of other advantages furnished to the Government by the bank, he would not speak; some of them were great, and he supposed undisputed. Of these, the bonus of a million and a half, was not the most considerable, and yet the representatives of the people might be expected to hesitate before they threw away even a million and a half. The obligation to transact all the business of the Loan office without charge, and the facilities which the bank must afford in all future loans, he considered as yet greater advantages.

We have seen how far the great duties of the bank have been fulfilled, and its expected advantages realized. But every question like that before the Committee, so far as it was a question of policy, not of justice or law, was in a great measure a comparative one. We had seen and knew what was the condition of the currency, and what the security for the operations of the Treasury with the Bank of the United States. What would be its condition without the bank, was a fair subject of inquiry and comparison; and a prudent man would consider even the doubt which must prevail as to the currency which would be established, as in itself a very strong objection to the destruction of the bank. What would our currency be? Would it be exclusively specie? Would it be State bank notes or Government paper?

He did not think (although perhaps the highest authority on matters of this kind was in favor of the opinion) that the employment of paper rather than coin, was sufficiently recommended by its economy, as the substitution of a cheap instrument of trade for an expensive one. If there were no other inducement for the use of paper, it would resemble the economy which should substitute wooden warehouses for stone ones. Without entering into an inquiry into the advantages or defects of a specie circulation, he would confess that his apprehensions would be much less than they were, if he could suppose that the metals would form the only currency of the country; that the Government could and would exact gold and silver in the payment of all its debts. But he would not waste the time of the Committee in speaking of an expectation, which every man who heard him, believed to be visionary.

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then, we must do it, because we prefer the currency which will be afforded either by the notes of local banks or by Government paper. It was not fair, indeed, to address this argument to gentlemen who believed that they were bound by the Constitution to destroy this institution. His friend from Virginia had properly abstained from the discussion of the Constitutional question, although he seemed to expect it from the opposers of the resolution. Mr. L. would follow in this instance his example, not his advice.

What were the inducements to prefer, in the receipt of taxes, the notes of local banks? A gentleman from Virginia (Mr. PINDALL) had supposed that without a National Bank, the State institutions, in their own time and manner, would all have returned to specie payments; that the Legislature of every separate State would at some time or another have made them do so. Mr. L. had no faith in this security, and he was sure that it would be vain to inquire for evidence of it. What they would have done under circumstances of great difficulty he would not say; but he would show what one of them was doing or was likely to do now. He meant again to refer to the report of a committee of the House of Representatives of Ohio; he did so with all proper deference, and without objection or complaint. Nothing was more fair than that the State of Ohio should receive in payment of its taxes and debts whatever money it preferred; but when it was argued that the United States might safely trust the regulation of their currency (the framers of the Constitution, by the by, had not thought so) to the regulation of the State Legislatures, it became necessary to inquire what was the currency with which those Legislatures would be satisfied. The report to which he had alluded, noticed, without disapprobation, the suspension of specie payments by the banks of the State; reprobated the conduct of the National Bank in refusing to receive their bills in payments; and declared that they formed "a solid currency" "for all the purposes of internal commerce." No proposal could be expected, and he believed none was made for a change in the solid currency which was so satisfactory to the State. But, did the interests or duty of the Government of the United States permit that this currency should be received by it? Some dissatisfaction was expressed, because the branch notes of the United States Bank were at a discount of three-quarters of one per cent. He read from a price current the state of the market for bank notes; by which it appeared that notes which were insisted to be in very good credit, varied from a discount of  $2\frac{1}{2}$  to one of 7, 15, 25, and even 30 per cent. Was our revenue to be received in these notes? How were they to be employed? They might be expended in the district in which they were issued. But was the expenditure of every district to be exactly limited to its revenue? What became of the Union if it were so? He spoke of the thing, and not of the name. Our Union might dissolve in imbecility, as well as be destroyed by violence. Did not Union imply,

that the resources of one State, its money as well as its men, might be employed for the defence of another? To authorize the General Government to levy a revenue from every part of the country, and to expend it only where it was levied, would be as wise a provision as that of empowering the President to call out the militia, with a condition that each man should fight only upon his own farm. The Committee were aware that the money which the Government received in the Western States, was principally the produce of its sales of public land. It was the fund which had been assigned to the Government, and pledged for the payment of the public debt. This debt was due almost exclusively in the Atlantic States and in Europe. Our creditors would not certainly receive Western paper. To say that it should be received by the Government, was to say that the fund should be diverted from the great object for which it had been established. But, if the Government were willing to bear the loss of a depreciated and unequal currency, it must neglect the plainest principle of the Constitution in doing so—equality of taxation. The Committee must well remember that, before the establishment of the National Bank, such was the unequal value of money in the different States, that the merchants paid duties varying fifteen per cent. from each other, on the same articles. The merchant on one side of the Chesapeake bay, was forced either to submit to heavy loss or to enter his goods on the other side, where he did not expect them to be consumed. Thus was a constant encouragement held out to depreciation by the Government itself. The worse the paper in which the Government debt was paid, the stronger the temptation to the business of importation in the place in which the duties were thus reduced.

Was the issue of Government paper a measure to which we ought willingly to resort? Mr. L. would not indiscriminately reprobate all issues of this kind. Other nations, as well as our own, had resorted to them, and the emergency had justified the act. He might acquiesce in paper money from necessity; he would not adopt it from choice. That the destruction of the bank would be followed by the establishment of paper money, he firmly believed—he might almost say he knew. It was an extremity from which the House would recoil, if it were now proposed; but if the resolution upon the table were passed, it would very soon be proposed. The subject was too large for an incidental discussion. Gentlemen thought that the amount of Government paper might be limited, and depreciation prevented by the rate of interest which should be exacted. Inadequate everywhere, the security was particularly ineffectual in the United States. Both the natural and legal rate of interest were different in the different States. The State in which the actual rate of interest was highest, would borrow the largest amount of Government paper, in proportion to its business. From it, this paper must flow upon the other States, and, adding to their quantity of an article for which there

was no foreign use, its depreciation must be infallible. He had not time further to develop the argument, but he trusted it to the reflections of every man who would turn his attention to the subject.

Mr. L. would dismiss this topic with one more remark. The inequalities and inconveniences of bank paper would not be removed by Government paper. The local banks would discount on Government paper as they profess to discount on specie; and the proportion between the Government paper and the bank notes which would be considered as representing it, might be as unequal as it now is between those notes and specie.

Such were some of the permanent evils which the destruction of the bank might be expected to produce. Upon temporary evils and individual losses, although he could not look upon them with indifference, he would not enlarge. Let not gentlemen delude themselves with the hope that if the institution were destroyed, its affairs would be gradually wound up; that the convenience of the debtor, and not the interest of the stockholder, would determine the extent of the indulgence that should be granted to him. In the scarcity of money which would follow the destruction of the bank, property might be expected to fall 15 or 20 per cent.; or in other words, money to rise in the same proportion. In whatever proportion the capitalist who was turned out of the National Bank should choose to invest his money, to consent to a delay in its collection and investment, would be to add a new and certain loss to those with which he had been before afflicted. Indulgence would be given where it was necessary to secure the debt, not where it was necessary to save the debtor.

He confessed that he did not understand the views of those who were anxious that the branches of the United States Bank should be immediately withdrawn from Kentucky and Ohio. Was it meant that they should not continue to lend? If these States owed five or six millions to the bank, there was but one mode by which their justice would allow them to wish that such loans should be discontinued—by their payment. But when could five millions be paid by them? He would answer for it, that the directors would be willing to reduce their discounts, and withdraw their funds from the Western States, much more quickly than it would be possible for their debtors to enable them to adopt that process.

Mr. L. said that he deceived himself, if he had not proved that the great objects proposed in the establishment of the National Bank had been fulfilled. But if he were wrong, if it had disappointed the just expectations of the country, an enlightened legislature would inquire whether there were no remedy short of its destruction. The charter had given to the Government powerful means for restraining the errors and controlling the conduct of the bank. The appointment of five directors, the withholding public deposits, the refusal to receive its notes in payment of taxes, an examination into the whole

conduct and real condition of the institution—these gave us a command which, while it was fairly and moderately employed, could not be disregarded or resisted. Would it be wise to destroy a constitution because you disapproved of its first administration? Would you even break up a machine, because in its first experiment there had been some mismanagement? On this part of the subject, he had the rare advantage of supporting his opinions by those of the select committee. The committee say, that "to correct the many evils and mischiefs they have depicted," "the Secretary of the Treasury has full power to apply a prompt and adequate remedy whenever the situation of the bank shall require it." They had before observed, that "the root and source of all the instances of misconduct was the illegal, reprehensible division of the stock." "In the opinion of the committee, it is the greatest evil in all the system, and is the origin of all the others." "It requires a corrective." And the committee have proposed a bill which they consider as adequate to its correction. Can it be, when "the greatest evil and the origin of all the others," is one which it is not only so practicable but so easy to correct, that we shall destroy where we might cure?

He should say but a few words as to the present condition of the bank, and the character and safety of its debts. The views which could be taken of such a subject, must certainly be very general ones. He did not mean to speak of the safety of the holders of bank notes. That would be perfect, if half the debts of the institution were bad. But he did not believe that any of the errors imputed to the bank had impaired or endangered its capital. The notes secured by a pledge of stock had been most objected to. So far as the stock was pledged at par, it was evident that the security was perfect—if not in all cases for prompt, yet in all for the eventual payment of the notes. For information on the subject of those notes and their security, he referred to table 42, among the documents which had been published.

The whole value of the stock, as the security, estimated at par, exceeded the whole amount of the loans which it was pledged to secure by upwards of \$1,898,000. But there were particular loans which exceeded the value of the stock pledged to secure them (if that stock were estimated at par) by \$450,273. This, then, was the whole amount of stock loans which exposed the capital of the bank to any hazard. (The stockholder who owed the par value of his stock was equally debtor and creditor of the institution—the opposite quantities neutralized each other.) It was to these \$450,000, that the inquiry applied; was the personal security given for that amount sufficient? The report stated "that the provision requiring an endorser for the excess above the par value, was in many instances effectually evaded by some of the largest borrowers becoming endorsers for each other." How far the endorsers were responsible men, he did not know. This mutual endorsement was one of the evils

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which the practice of lending upon stock tended to remove. But when it was considered that the whole amount of stock loans, for the safety of which personal security could be at all necessary, was in Philadelphia \$173,450, and in Baltimore \$276,823, it must be admitted that there might be a very free exchange of names in those cities, and these inconsiderable amounts be yet effectually secured. He thought it not unlikely that the committee had fallen into the error of comparing the personal security not with the moderate sum to which it was applicable, (the excess of the loan above the par value of the stock,) but with the large sum, for which there was another and an adequate security, (that of the stock.)

If the loans on stock were considered safe, the only class of debts which the committee, from any information before them, had reason to suppose exposed to risk, (and they had that reason only from their magnitude,) was that of the debts due in the Western States. He had admitted that some years must pass before the greater part of these could be paid. But, although the circumstances of those States made it likely that they could not be promptly paid, he saw no reason to believe that they might not be paid eventually. In the meantime, they might be considered as diminishing the active capital of the bank. It is, however, by no means true, (where the condition of the country or the charter of a bank prevents it from owning funded stock,) that long loans to individuals may not properly be made—but he was afraid to engage in this digression.

He had as yet said nothing as to the violation of the charter. It was, indeed, in his view of the matter, a subject of no great importance to determine whether a legal and technical violation had been committed. If the public interest required that the institution should be preserved, the Legislature would preserve for the same reasons for which they had established it. The question of law would be much better discussed by those who were acquainted with its intricacies, and he had detained the Committee so long upon the other branches of the argument, that he would comment very briefly upon this. He differed, he believed, upon this subject, from all the members of the committee. He thought that none of the acts alleged amounted to a violation of the charter.

The first violation of the charter, as alleged in the report, was that of purchasing two millions of public debt. The bank, when engaged in importing specie from Europe, had sold two millions of its funded stock in England. This stock, in the hands of the bank, was redeemable at the pleasure of the Government. Before it had been subscribed to the bank, it had been, by the condition of the loan, irredeemable until the year 1825. The bank supposed that it was restored to this irredeemable character when it again became private property. He confessed that he thought so; and he believed it to be a common, and even the general opinion. The Secretary of the Treasury thought otherwise, and insisted upon the

right to redeem the stock which had been sold in England. The loss which the purchasers would in this way have sustained would have impeached the credit of the bank. To maintain it, the Secretary of the Treasury proposed that the bank should purchase, on account of the Government, the same amount of stock which it had sold; and it did so.

The charter provides that the bank shall not purchase any public stock. The merest verbal construction of the sentence—the interpretation to be obtained from a dictionary—would be, that that the bank should not “acquire by buying,” it should not become the owner, by purchase, of the public stock. And it did not. There was not a moment during which the bank was the owner of the stock, which was at once transferred from the individuals who sold it to the Commissioners of the Sinking Fund. But he would willingly waive the verbal question. What was the intention of the provision? That the bank should not become the owner of funded stock, so as to enhance the price when the Government wanted to buy, or to reduce it when it wanted to borrow. And how could either of these evils result from its buying at the instance of the Government, and for the benefit of the Government, any amount of stock whatever? But it did not act, the report says, as an agent in the purchase of the stock, because it contributed out of its own funds a part of the price. The committee appeared to him to have confounded two acts which were very distinct. The bank, if the Secretary was right, was clearly bound to pay the difference between the par value of stock and its actual price to those to whom they had sold it as irredeemable, but in whose hands the Secretary determined to redeem it. It was as well to pay it to the Government. Suppose it to have done so, (and it substantially did,) where was the law which forbade it, although it had contributed a part of the funds, to act in its usual and convenient character of the agent of the Government.

If the purchase in question be one which is prohibited by the charter, the directors who sanctioned it are liable by law to a very heavy fine. Would any member propose that they should be prosecuted for this act of defence and benefaction to the Government? Could it be that this purchase was not such a “dealing in stock” as could subject the individuals who made it to personal responsibility, and yet, that it should subject the institution itself to the penalty of dissolution?

The second alleged violation of charter consisted in not requiring the payment of the second or third instalments in coin and funded debt. What are the powers of the directors as to the debts due to the institution generally? They may change the security, they may prolong their credit, they may vary both the time and place of payment. Mr. L. did not see, when the bank was once in operation, that the power of the directors, in respect to instalments, was not precisely the same as in every other debt. The committee say that the bank should have insisted upon

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"the specific thing." When a bank is once in operation, it must consider its own notes as specie; and, under the compact with the State banks, the National Bank was, in fact, obliged to consider their notes as specie. The question, indeed, resolves itself into two: 1. Ought notes of the National or State banks to have been admitted in payment of the instalments? 2. Ought any discounts to have been made to subscribers to the bank?

Can it be seriously contended that the bank ought not to have received its own notes as specie? You appear at the counter with \$1,000 in its paper. It refuses to receive it, and insists that you should go through the process of causing the specie to be brought from its vaults, paid to you by the teller, and then to the teller by you, and everything would be formal and right. The silver might then be restored to its former place. So even with the State bank notes. The National Bank, it is said, ought not to have received them. You must then have drawn specie out of the State bank, paid it into the National Bank—the National Bank, under its compact, must have lent it immediately to the State bank from which it had been drawn; and, after the whole *mancœuvre* was over, the specie must have resumed the position which it had left in the morning. There was but one possible mode by which the payment of the instalment "in the specific thing" could have been secured, (if it could have been at all secured,) by delaying the commencement of operations until they were paid. The attempt would have been very injurious to the country, it was incompatible with the proposals of the Government, and was interdicted by the law. He had enlarged enough upon this subject in the commencement of his observations. The large amount of notes which the bank threw into circulation, if not a single note had been discounted for a subscriber, would have had the effect of causing the instalments to be paid in notes, not in coin. They would be paid in whichever of these articles could be most easily obtained, and if the issue of it was large, the article most easily obtained must be paper.

It was hardly important, then, if they discounted at all, whether they discounted to subscribers or not. But why should they not? The very business for which the directors were appointed was to lend money. If a subscriber paid one moment, the directors might properly lend to him the next. If specie were drawn from a State bank in one hour, they would properly lend it to the bank the hour after. Did not this imply that they might prolong the credit of the subscriber, and receive the note of the bank?

The observations which he had made applied to the discounts for instalments generally. There were peculiar reasons in favor of those which were made between the 3d and 23d of January, 1817, under the resolution of December 18, which made the conduct of the bank in relation to them not only allowable, but wise. He had neither strength nor time to enter into the inquiry, but he had on his table the names of all the discounters, and an ex-

amination would show that they were not, in general, large stockholders, and that the great proportion of their notes was paid at maturity.

But the report says that the directors abandoned the means of coercion given by the charter, and gained nothing. It was true that, in discounting a note for a subscriber, to enable him to pay his instalment, they gave up the means of coercion which the withholding the dividends might furnish. But did they gain nothing? Was it not notorious that, under the common construction of the charter, it was considered fair, and not discreditable, to postpone payment of the instalment and abandon the dividend? No man's credit has been hurt by this delay in paying the instalment. The first gain of the bank, then, was that of pledging the personal credit of the subscriber to his punctuality. The second advantage which the bank gained, it might have been expected, could not have been overlooked or disputed—the actual payment of one-fourth part of each share in funded stock. The third advantage was the pledge of stock, with the power immediately to sell it upon the failure of the subscriber to pay his note. He would venture to say that there was not one of these notes, the payment of which, at maturity, might not have been enforced by this provision. The statement given by the committee of the price of stocks during the year 1817, would establish this proposition.

He must here suggest the argument which had been anticipated by the gentleman from Virginia. In January, 1817, if the transaction of which he was speaking was wrong and mischievous, Congress knew it—knew it in time to prevent it. A committee was instructed to inquire into the subject. This committee reported that there was no occasion for the interposition of Congress, and Congress did not interfere. A friend of his from Georgia, proposed a resolution that the public deposits should be withheld, while the plan which the committee disapproved was persevered in. The resolution was adequate to its object. The House did not take it up. Since that time how many purchasers have become interested in the stock, who have never suspected that Congress would punish vindictively an act which it would not interpose to prevent!

The third instance of violation of charter, is said to consist in the payments of dividends to delinquent stockholders. These dividends were paid when their subscriptions were received, and they ceased to be delinquent. If he understood the documents, the whole amount of dividends so paid, of which he had any evidence, was \$1,460; but from this the interest which they paid must be deducted, and they possibly received \$360 more than they were entitled to. The precise amount, indeed, is not important. And by whom were these dividends paid? Did the directors order—did they know it? He really did not think that the payment of three or four hundred dollars, however erroneously, by a subordinate officer, could be justly punished by the loss of the charter of the bank, or, to take

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the test proposed by the committee, "that it defeated the very objects of its institution."

The fourth alleged violation consisted in allowing bad votes to be given at elections. Without reference to the number of these votes, or to their effect upon the election, he was willing to leave the charge, without argument, to the Committee.

He had attempted to show that the dissolution of the bank charter, as a measure of policy, was not wise—as a penalty, that it was not legal. But what is just? You allege that the institution has been mismanaged. You admit that the stockholders have been the principal sufferers, and, in resentment of their wrongs, you ruin them. You censure the conduct of a direction of which you appointed the most active members and the head, and you mulct, perhaps to the ruin of their fortunes, the men whose error consists in supporting your appointments, and confiding in your superintendence.

On the whole, he should vote against all the resolutions before the Committee. His friend from Virginia had said that a Legislature may repeal any of its acts. Can a Legislature make a contract? To assume the power of annulling contracts, is to lose the privilege of making them.

The proposal for issuing a scire facias had certainly the recommendation of being within the Constitutional powers of Congress. He had endeavored to show that it had no other.

Mr. L. said he was too much fatigued to discuss the resolutions proposed by the chairman of the select committee. He was, however, glad that he had withdrawn the most objectionable. Of those which remained, some might do a little good, and some a little harm; some appeared to him to be absolutely nugatory, and nearly all of them unimportant. He could not understand how the maintenance of a great institution, powerful as all men allowed it to be, for good or mischief, should be made to depend upon such conditions.

Mr. TYLER said, that he was aware of the embarrassments under which he rose to address the Committee. The late hour of the day would be enough, in itself, to advise him of its exhausted patience. But a regard to the economy of time, a recollection that but few days remained for legislation, induced him to proceed. From the moment that the Speaker thought proper to confer on me the honor of an appointment on the committee whose report is now under consideration, up to this time, I have felt the responsibility of my situation. It is known to you, Mr. Chairman, that I represent a district deeply interested in the decision of the questions now depending. It is known to this Committee, that it became my duty to present a petition, signed by many of my most respectable constituents, the other day, to the House, adverse to the course which I shall pursue. I can, however, sir, neither look to the right nor the left—my own personal popularity can have no influence over me, when the dictates of my best judgment, and the obli-

gations of an oath, require of me a particular course. Under such circumstances, whether I sink or swim on the tide of popular favor, is to me a matter of inferior consideration. It is my misfortune, also, to follow, in this debate, the gentleman from South Carolina, (Mr. LOWNDES,) whose views are, in the general, most luminous and correct. Upon this question, however, I am forced to differ from him. Sir, the gentleman has dwelt upon the benefits arising from the bank. He has presented you, alone, the fair side of the picture. In many of his views I concur with him, but it becomes us to examine both sides of the painting. He has represented this institution as vitally connected with the prosperity of the country. Its destruction is to be attended with the most fatal consequences. And are we come to this? Shall we be forced to countenance speculation and fraud from the fear of encountering the evils of putting down this system? Is it so completely interwoven with our best interests as to endanger those interests by putting it down? Does this Government, indeed, rest on this corporation for stability and support? I cannot believe it. We are not yet reduced to such a state of degradation. Sir, if the gentleman from South Carolina had exerted his talents for the purpose of devising a scheme by which we could have successfully extricated ourselves from our present embarrassing situation, I cannot but think, with all respect to that gentleman, but that he would much more beneficially have employed those talents than by the course he has thought proper to pursue. If the evils of this system, as disclosed in the report and testimony, be not sufficient to induce us to direct a scire facias, in the name of Heaven, I demand to know what would be considered a sufficient inducement?

Sir, in many of the views which the gentleman has taken, I concur with him entirely. That the bank has acted correctly, in some instances, no one can doubt. That the effects of some of its measures have been beneficial, I am willing to admit. It has facilitated the operations of the Treasury; it may have gone far to introduce an uniform currency among us. I am not disposed to canvass these propositions. But, sir, the gentleman has alluded to some expressions, in the report of the committee, which, I think, are susceptible of defence. I allude to the remarks he has made on the subject of the establishment of an agency in England to pay over the dividends to foreign stockholders. The report barely glances at the propriety or impropriety of the bank undertaking to deal in bills of exchange. It was a question which the committee did not feel a disposition to decide. But the establishment of an agency in England was esteemed as reprehensible because of its being viewed as a part of the system which was adopted to inflate the price of stock. The theatre was enlarged, and the demand increased. I cannot conceive how the domestic stockholder was to be benefited by the adoption of the measure. It certainly did not add one cent to the profits of the bank. It

did not inspire it with increased ability to enlarge its discounts, and I, like the committee, feel that it can only have been intended for the purposes I have before stated.

Another expression has also been excepted to by the gentleman from South Carolina, viz: "that the loans actually made were most of them; unreasonable and excessive in their amount; they were not made to the merchant and trader, but to a few persons, consisting of directors, brokers, and speculators." Loans, on a pledge of stock, were certainly made indiscriminately to all who applied, but that most of the large and excessive loans were made to the persons described, from my recollection of facts, admits of no doubt. True, sir, of the names of fourteen persons, which were selected, not from any information previously in the possession of the committee, but merely in consequence of the amount of the loans, we were informed that seven were merchants, five brokers, and two not falling under either description of character. Yet I wish to inquire of the gentleman, if the seven merchants were not actually dealers in stock; and whether the loans thus made were not owing to the fact, of the discounters having received a transfer of the stock, under the resolution of the board of directors, authorizing such transfer? I do not, therefore, esteem the expression in the report liable to the exception which has been taken to it. I repeat, the most of those who obtained large loans, on a pledge of stock, were actually speculators and brokers.

Having now, Mr. Chairman, disposed of the exceptions taken by the honorable member to some of the expressions of the report, I proceed to an investigation of the subject more immediately under consideration. The question whether it be proper to direct a *scire facias* against the bank divides itself into two heads of inquiry. First, whether the charter has been so violated as to inure a forfeiture? And if so, is it expedient to exact the forfeiture? The decision of the first would preclude me from an inquiry into the second. For, sir, inasmuch as I believe the creation of this corporation to be unconstitutional, I cannot, without a violation of my oath, hesitate to repair the breach thus made in the Constitution, when an opportunity presents itself of doing so, without violating the public faith. But, believing also, that it is expedient to put it down, and other gentlemen feeling themselves at liberty to follow up that inquiry, I propose to express to you my views on that subject.

I contend, then, Mr. Chairman, that this charter has been violated, and that, if subjected to investigation before a court of justice, it will be declared null and void. I would only have you look to the long catalogue of crime detailed in the report—to those practices calculated only to pamper a few, at the expense of the many—to the corruption which, by its illicit gains, almost laughs at your power. Shall we be told, with these facts staring us in the face, that this charter has not been violated? Say that no particular clause has been violated—that the votes were ta-

ken according to the first fundamental article in the charter—that the \$7,000,000 in specie required has all been paid in—yet, I demand to know, if the great objects of the institution have not been defeated? You create a thing for good, and not for evil. Yet the good, in a great measure, vanishes, and evil alone exists. You incorporate a company for the purpose of advancing the interests of all concerned, and the machine thus created is managed, exclusively, for the aggrandizement of a few, and not for the good of all. Is not this, to adopt the rule laid down by the committee, so to misuse the powers granted, as to defeat the objects of the charter? The most reprehensible proceeding takes place—almost every object expressed in the charter is disappointed, and can it still be insisted that the corporation has not forfeited its franchises? It is a broad and great principle for which I contend. It is for the doctrine of responsibility due from the creature to the creator—the principle on which our Government is founded. The President is invested with certain powers; yet, if he abuses or misuses those powers, he forfeits his seat—the object of his election is disappointed—so, in regard to every other officer of the Government. Shall a corporation alone be irresponsible? There is nothing in reason or in law, to justify the idea. But, Mr. Chairman, if the position I have assumed, that a misuse of a franchise is a forfeiture thereof, is not sufficiently supported by reference to the principles of our Government, whither shall we look for still further argument?

The common law has been pronounced inoperative, in the courts of the Union, by many honorable gentlemen. But, sir, without stopping to inquire into the correctness of that position, I am willing to yield to those who hold a different doctrine all the benefits of the rules flowing from that source; and, under the principles of that law, I shall be able to demonstrate the correctness of the proposition for which I am contending. Nothing was more easily effected than the forfeiture of a franchise at common law. The statute of 18 Edward II. was an act to restore franchises to those who had lost them. Sandwich lost its privileges, immunities, and franchises, for a very slight cause. It had entered into a covenant with the abbot of St. Austin, in Canterbury, to deliver annually to the abbot a certain quantity of wine. It did not complete its engagement, but remained indebted on account thereof some twenty or thirty marks. For this sum, a suit was instituted, judgment obtained, and an execution issued, and levied on the property of the corporation; and because some of the inhabitants made a rescue of the property, it was judged by the court, and afterwards sanctioned by Parliament, that the town had forfeited its charter.

My honorable friend from Virginia, (Mr. JOHNSON) referred you also to the case of the King *vs.* the city of London. I will refer gentlemen to the reasoning adopted by the Attorney General in that case, to corroborate and strengthen my position. These two cities, the one for the commission of a trespass, and the other for having



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exceeded its powers in imposing a market toll, were declared to have lost the privileges and immunities secured to them by successive acts of Parliament, and by *magna charta* itself. Compare those cases with the present case. What is this case? Sir, I forbear to represent it. I will only refer you to the mass of testimony, all which goes to show that the charter has been most shamefully perverted to the purposes of stockjobbing and speculation. I do not mean to insist that these cases are obligatory on us—far from it. I am, on the contrary, disposed to think, that it would comport better with our permanent good, if our courts would carve out for themselves a course of decision in consonance with the principles of our Government. But, if we are to refer to arguments arising under common law, I repeat again, that the argument delivered by the Attorney General, in the case of the King *vs.* the city of London, is well deserving of attention. That case has always been quoted as an evidence of acquiescence on the part of the English judiciary, to the arbitrary will of the monarch. But the reasoning in the case is not affected by that accusation against the court. But, in truth, we require no foreign precedents to govern us in deciding on this question of forfeiture. The charter contains a provision which will silence further inquiry. It expressly declares that, if a *scire facias* be directed, and the court believe that any violation of the charter has taken place, it shall pronounce it forfeited and null. Before we direct a *scire facias*, we have to satisfy ourselves of the same fact, and the question recurs, has any such violation taken place? That it has I have no doubt. Your great object in creating this corporation, was to reclaim the country from a flood of paper, irredeemable in specie. You wished a bank with a sufficient specie basis to cause its notes to pass currently for gold and silver. As a great means for accomplishing this object, certain fundamental articles were laid down. The first article limited the number of votes to be given by each stockholder. It was intended to deny to the large stockholders the power of defeating your intentions; and yet what it done? Evasion is resorted to, and in the outset the stipulations of the contract were violated, and instead of giving but thirty votes, one individual gives eleven hundred, on eleven hundred shares. The stockholder has accepted a covenant on certain positive conditions; he has agreed to carry it into execution in good faith, and yet, the moment after, he violates a fundamental article. He has also expressly agreed that it shall be fulfilled or forfeited; and still, when the fact of nonfulfilment is fully established, it is contended that no forfeiture ensues. I should rely strongly on the ground, that a violation of a fundamental article produced a forfeiture. That which is fundamental cannot be altered—cannot be changed. Can you remove the pillars of this charter, and yet expect it to stand? Can you remove the foundation, and yet expect the fabric to remain? It is only necessary to state the proposition, in order to receive the answer. The gentleman

from South Carolina has contended, that this violation was the consequence of the acts of particular individuals, and not of the corporate body, and that therefore no forfeiture ensues. How many persons were concerned in the violation of this article, is at least problematical. Let it be recollected that Mr. Leiper states, in his deposition, and he was not only a director, but a judge of the election, that he divided his shares, and that it was generally done for the purpose of effecting the election. But, in addition to this, it never was discountenanced by the directors. They suffered the violation to take place under their very noses; many of them were individually concerned in it, and not a syllable of reprehension is uttered. But the position of the gentleman from South Carolina, is not based on legal principles. What is the definition of a corporation aggregate? A corporation aggregate is described to be “an artificial body, composed of divers constituent members, *ad instar corporis humani*; the ligaments of which artificial body are the franchises and liberties thereof, which bind and unite all its members together, and in which the whole frame and essence of the corporation consist.” It is compared to a national body. Sir, if any one member of my body offend, the whole body bears the punishment. If my finger violates the law, my body pays the penalty. If my hand executes murder, that hand is not lopped off, but the ligaments and arteries of my system are cut asunder. With equal propriety might the natural body complain that it was made to suffer for the misdeeds of its members, as that a corporation aggregate should complain that it was made to bear the same relation to its members. If this were not the correct rule, I demand to know in what manner you would reach the guilty person?

But, Mr. Chairman, the effect of this violation does not stop here; if it did, it might be overlooked. I consider it the root and foundation of every evil. Shall I be considered as expressing myself too harshly when I say to you, that I ascribe the non-payment of the second instalment, to this very violation. I am not conscious of being wanting in charity; I am not aware of having too much gall or bitterness in my nature, nay, I would sooner, if I could, frame an apology for the errors of my fellow men, than expose them naked to the sight. But, does not the fact stare us palpably in the face, that the resolution of December, 1816, authorizing discounts to enable stockholders to pay up the second instalment, was intended, and actually applied, to the benefit of the stockholders residing in the vicinity of Philadelphia and Baltimore, whose influence had become overwhelming, in consequence of the violation of which I complain? The man who resided at a distance derived no benefit, no facility, under the resolution. He had not been among the knowing ones; he had not heard a whisper that such a resolution would be adopted, before its actual promulgation; he had prepared the specie and stock to meet his engagements, and did meet them. Was not this measure then not only calculated to defeat the payment of specie, but to

disappoint the very inducement you held out for punctuality? The dividends of delinquent stockholders were declared to be forfeited, and yet this overweening influence had the effect to do away this salutary regulation, and to cause the benefits of punctuality to be distributed to all alike. Nor did the evil stop here. This same influence produced the resolution of the 25th August, 1817, authorizing the loans on stock at \$125 per share, and the stockjobbing which followed. But I go further, and I feel myself authorized to make the declaration, that the present situation of this country—the distress in the mercantile world—the bankruptcies in your cities—are in a great measure ascribable to this very violation. What has produced the great drain of specie from the North? I will not repeat the reasoning contained in the reports; I will only remind you of the excessive drafts from Baltimore. The directors at Philadelphia saw the ruin which threatened them; they protested against the practice. What more could they do? They dare not act decisively; they could only supplicate, and entreat. And why not? George Williams answers the question—names could be obtained in Baltimore at eleven pence a piece. These excessive issues had the effect of producing a curtailment on the part of the United States Bank, and the State banks were driven to the adoption of the same system, as a measure of self-defence. Ruin and bankruptcy have been the inevitable effects. Sir, eighteen months ago we were prosperous and happy. What now is our situation? Gloom and despondence in our cities—usury stalking at large, and boasting of its illicit gains, while honesty and industry are covered with rags, the melancholy image of our changed condition. Does it not follow, then, that this was such a violation as was calculated to defeat the objects expressed in the charter? We are disappointed as to the mode of voting—as to the payment of specie—as to the dividends; and every measure calculated to produce evil has grown out of this; and yet my friend from South Carolina gravely contends that this charter is not forfeited!

I know it will be said that the course pursued in subscribing for the stock of other banks was similar to that pursued in regard to this, and that the charter in itself was not sufficiently guarded. For myself, I can listen to no such excuse. Was this stipulation entered into merely to gull and deceive? Did Congress, at the time of creating this charter, introduce this article that it might be violated? Did the stockholder, when he accepted it, accept it with a knowledge of this condition—and shall he be permitted to say, "true, I contracted with you on certain conditions, which I never intended to fulfil?" Did he sign it with good faith or with bad? That he has executed it in bad faith, there is no doubt; but I ask of honorable gentlemen to say, if they really do think that this stipulation was made out of mere sport, and to afford to the stockholder an opportunity of evincing his cunning and ingenuity? I have the authority of the charter to contradict such a conclusion. But, give the argument all

the force you please, what will it avail? True, other banks may have suffered such violations of their charters, (I am, however, not cognizant of the fact,) and have been still suffered to exist. But, is the bare circumstance of their having escaped with impunity, any evidence of the legality of their conduct? Has the question ever been presented to a court of justice? In order that it should be urged as a justification of this violation, it must be shown to have received a legal sanction. You cannot justify illegal acts by illegal acts, or the violation of a contract by the violation of a previous contract. But the charter was not sufficiently guarded.

Can this position be relied on? What reply shall I make to it? Sir, I present the contract to your view. The stockholder had expressly stipulated to observe its provisions, and a faithful compliance on his part is guarantied by the last clause, which declares, that, unless he fulfils his undertaking, the compact shall be forfeited and null.

[Here Mr. TUCKER, of Virginia, it being at a late hour, and Mr. TYLER having given way, moved that the Committee should rise, which it accordingly did.]

On Monday morning Mr. TYLER resumed his argument of Saturday. He recapitulated the grounds he had taken, and begged leave to explain a remark which he then made in reply to Mr. LOWNDES, as to the expression that most of the large and excessive loans were made to speculators. I feel myself authorized, he said, to repeat the assertion upon more mature reflection, aided by reference to a document in my possession. Let me not be misunderstood—when I speak of large loans, I do not mean loans of ten, twenty, or even forty thousand dollars. For, although these elsewhere would be considered large and excessive, yet, at Philadelphia, in looking over the books, the eye being attracted by greater objects, would scarcely rest on them for a moment. Sir, I will give you the amount of such loans as I allude to. One loan of \$97,000 to one individual; two of \$123,000 each; one of \$140,000; another of \$166,900; others of \$277,000, \$365,000, \$400,000, and another of \$1,800,000. Each of these is an individual loan, or, what amounts to the same thing, a loan to individuals and mercantile firms. I am not permitted to disclose the names of these discounters unless the House should demand the disclosure, which I should hope it would not do, as it would only have the effect of injuring private credit, and lead to no practical result. I have given you instances of the loans made to ten discounters, forming the enormous aggregate of \$3,692,150. Can any one pretend to justify such a state of things? Is it to be countenanced by any correct banking principle? The bank has, in fact, committed an act of suicide against itself. Can it control the funds thus disposed of? If it adopts a system of curtailment, must not cases such as I have mentioned form exceptions to that system? If it imposes an equal share of curtailments on such persons with the other debtors of

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the bank, bankruptcy would be the inevitable consequence. Sir, the mother bank itself has, by its conduct, justified me in entertaining these opinions. It has resorted to a curtailment of its debts, and has never touched the discounts on pledged stock. From eight to ten millions of its debts have thus escaped reduction, and, of course, an increased pressure has fallen on our cities. I do not esteem it necessary to press any further this opinion. It must be obvious to all. What does this statement still further prove? Does it not prove the influence of the large stockholders over the institution, in consequence of the division of votes? Let not gentlemen deceive themselves in another point of view. The petition I presented you the other day, Mr. Chairman, brings to the bar of this House, with dejected countenance and eyes swimming with tears, the widow and the orphan, whose funds have been vested in this institution. They are made to utter curses against us if we take any step to put down this corporation. The picture is improperly filled up. It is the speculator, the stockjobber, who should have been presented, kneeling before us. He alone is now to be affected. The curses of the widow and the orphan will be uttered against them, not against us, for we are doing the innocent stockholder an act of justice, by relieving him from the company into which he has fallen, and returning him his money. I shall presently show that it is to his interest to have this bank put down. I hasten to a prominent instance of violation of this charter, and the last which I shall consider. I mean a failure to pay the instalments in specie and in funded debt, which, although a consequence of the preceding violation, deserves to be distinctly considered.

Will it be urged that the stockholders were authorized to pay in the notes of the bank? Upon what principle will this be justified? Will the course pursued by other banks furnish any justification? Why was this bank created? Was it to imitate the example of other banks, or to avoid their errors? The country was flooded with paper money. Our statesmen had sketched out blessings without number in the creation of a multiplicity of institutions. When the scheme first came up, wealth was promised to all. This land was to be converted into a garden. On paper wings we were to have soared to the height of our wishes. One dollar was to be manufactured into three. The manufactory of paper went on. The beggar's rags were even coveted, and the alleys of our streets ransacked for materials to convert into money. For a time all went on swimmingly. The dreams of wealth visited our pillows. The vision was brilliant—was enchanting. We fancied we held in our embraces youth, and beauty, and unspotted purity. But the sun rose, and the cup of our joy was dashed from our lips. Instead of holding in our arms the form of loveliness and virtue, we found ourselves in the embraces of an old and haggard witch, deformed in her features, corrupting by her example, and breathing around her ruin and misery. It was in truth the real image of bank-

ruptcy. We had forgotten the fable of the dog and his shadow; for we had let go the substance and grasped nothing but empty air. We discovered, when it was too late, that we had exchanged gold and silver for worthless trash. The banks could not redeem their notes—they had to stop payment. At this moment the National Bank was thought of. The great object was to secure to it a specie payment, for which purpose seven millions of dollars was directed to be paid "in the gold or silver coin of Spain or of the United States." Has it been paid? It is admitted that it has not. Has not the charter, then, if it means anything, been violated? I reason on the principles of common sense. Can you manufacture gold and silver coin into paper? And, if this process cannot be performed at your mint, has the bank the possession of the secret? Yes, sir, it possesses the secret. Ask if the gold and silver has been paid; you are answered in the affirmative. Ask an explanation as to the manner, and you are told by the wise heads, "why, our paper is equivalent to specie, and the payment has been made in that." By the same process, too, is Government stock manufactured at the bank. But, it is urged that the bank was bound to redeem its notes in specie, and that, therefore, its notes were as good as specie. This presents another enigma. I should like to know how it was to be called on to redeem its notes before it had any in circulation? This secret was not discovered before the 18th December, 1816, and the second instalment fell due directly thereafter. And, if the bank had not gone into operation before the first of February, I should like to know where its notes were to be obtained? As to the second instalment, the position must fail. It is, however, said, that the charter did not contain provisions strong enough to compel a compliance. The forfeiture of the dividends was not sufficient. And yet, at the very moment that the inefficiency of this provision is complained of, the directors render it still more feeble and inefficient by throwing open the doors of the bank. The resolution confines the discounts to stockholders, thus enabling those who would otherwise have been delinquent to pay up the instalment, not in specie and funded debt, but by a bank accommodation. But, Mr. Chairman, I contend that the directors had full power to compel a compliance with the stipulations contained in the charter. They might have instituted suits in the courts of justice against those who might have been delinquent; by which means, I venture nothing when I say they could have recovered the amount of the instalment in specie and in Government stock, with interest from the time it should have been paid. But, if this course was doubtful, they might have resorted to a more efficient exercise of power. Suppose that the resolution of December, 1816, had been a resolution announcing to all, that, until the second instalment was paid, no delinquent stockholder should receive an accommodation at the bank. I verily believe that such a course would have produced the most beneficial effects. It would have either produced a

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payment of the instalment or a more equal distribution of the stock—the one subserving the objects of the charter, the other grappling with the spirit of speculation and overthrowing it in its infancy. It would have made it the decided interest of the large stockholder to have paid up. The men holding the largest quantity of stock are merchants. They, most of all others, require bank accommodation. The pressure of the times would have forced them to look to the bank for aid. I think, therefore, that the effect described would have flowed from the measure. And, if they could not have paid up on all their shares, they would only have retained so many as they could have paid for. No, sir, nothing of this sort could be done. The directors dare not have encountered the dislike of the large stockholders with their innumerable votes. I think it would have been manly, honorable in them, to have pursued such a course. They might have met complaints with the charter in their hand. They might have said to the stockholder, you have made a solemn compact with the Government. You are bound by every principle of honesty to effectuate your undertaking. When you have done so, and not before, can you expect any benefit from the institution.

As to the third instalment, I am ready to admit that the directors are not culpable for the manner of the payment. I do not require impossibilities to be performed. It was perhaps impracticable, by any regulation of the board, to have prevented an invasion of the charter. But yet the stockholder violated the covenant. He had no impossibility to perform; he was bound to pay in specie and in funded debt. Is it an excuse for him to say, it was easy for me to evade my contract, and I did evade it? Are we to submit to such mockery of justice? Do we sit here to countenance such evasions? What a farce, then, is your legislation! The gentleman from South Carolina contends that the bank had entered into a contract with the State banks, and that the proceedings, as to the second instalment, arose out of a desire, on the part of the bank, to fulfil that engagement. It is only necessary to say, that this, instead of diminishing, increases the error of the bank. It had no right to enter into a contract which should force upon it a violation of the charter; and, to carry into execution such contract, was doubly to violate the charter. But, if I am wrong here, I would inquire of the gentlemen, what is the date of the contract with the State banks? Sir, it is dated the last of January, 1817. When was the resolution to discount to stockholders adopted? One month before. So that it is perfectly obvious, that the bank was untrammelled by any engagement at the time of its having adopted the resolution to which I have alluded. But, sir, there was gross injustice, I will not say fraud, practised on the Government, and on those who had paid up the second instalment, by admitting those, who had availed themselves of the resolution, to come in for a share of the dividends. The first had paid up, according to contract; the other only cancelled one obliga-

tion, by entering into another. They discharged one bond by giving another. They added not one cent to the ability of the bank to discount; they contributed nothing to its capital, and added not a dollar to the specie in its vaults. If, then, the profits of the bank had been divided among those only who had paid up in specie and public stock, the dividend would have been greater to each. The bank traded on the specie and stock which my constituents and others paid in on the first and second instalments and divided the profits of trade with those who had not advanced a cent on the second instalment. It may be said that it was the loan to the stockholders, that caused the dividend to be as great. The position is not tenable. The bank obtained on the loan no more than six per cent., and this, without the loan, each delinquent would have been bound to pay; for the amount due for the instalment would have borne interest from the time it fell due. Shall we not only, then, suffer the charter to be violated, but submit to be deprived of our rightful gains? For one, I protest against it.

We have been told by the gentleman from South Carolina, (Mr. LOWMEYER,) that the subject of this violation has once heretofore been before us, and that, not having acted then, we should not act now. What was the fact? The House, soon after the adoption of the resolution of December, 1816, had it intimated to it that such a resolution had been adopted. The subject was referred to a committee, who made a report, founded on a letter from a director casually in this city, (Mr. Lloyd,) and which report was neither adopted nor rejected, but ordered to lie on the table. We had then only a partial view of the measure; we knew not in what spirit it had originated; we knew nothing of the violation of the first fundamental article of the charter; we saw not that it was but the bolt which opened the door to speculation and individual aggrandizement. These things were then concealed from our view. But, I ask the honorable gentleman to say, what measure we should then have adopted? Should we have taken upon ourselves the management of the bank? Did it belong to us to say to the directors, your resolution is a bad one; and in violation of the charter, therefore rescind it? Or, if we were not to pursue that course, does it make any difference whether we had then rescinded the charter, or do it now? Or yes, sir, there would have been some difference; a great difference in the cases. We should have been saved the pain of beholding the picture presented by the report and testimony; we should have been saved the sight of this cold and unfeeling speculation which has grown up among us. Nay, our reliance on the virtue and integrity of men standing high in our confidence, would have remained unshaken. And shall we now be referred to our former omissions, to justify still further omissions? Shall we now be told that, because we did not punish impropriety in its birth, we must not approach it when it has gained full size? Shall it be said that, because we did not punish the infant, we shall not extend retributive

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justice to the adult? No, sir, now is the time for us to interpose. Will not that overwhelming influence which heretofore has ruled, still rule? Will a change of directors be followed by a change of measures? Where is the security which you have against a continuance of the present course? Will the bill reported by the committee produce a change? I question your right to pass it. You can annex no new penalties. The contract has been accepted, on certain conditions, and I know not where your power is to be found to alter or enlarge them.

Mr. Chairman, it seems that we owe something like gratitude to this bank for having brought about specie payments. It is with difficulty I bring myself to differ with the gentleman from South Carolina, upon any question connected with mercantile or banking operations; but I cannot admit the correctness of this position to the extent that he would carry it. I think that the incorporation of the United States Bank was calculated to delay the resumption of specie payments on the part of the State banks. If I am not mistaken, the State banks had made preparatory arrangements towards the resumption of specie payments; they had curtailed their discounts; but the creation of this bank forced upon them, as a measure of self-preservation, a continuance of the course they had adopted. Specie being required on the part of the stockholders of this institution, they would, if the State banks had opened their vaults, have collected their notes, and drained their specie, to the amount of said instalments. I think, therefore, that the State institutions were left but one course, and that was the very course they did persist in until the 20th of February, 1817. But, sir, what is the nature of the contract entered into between the United States Bank and State banks? What great sacrifice did this corporation make on the altar of public good? The State banks owed to the Government balances on account of deposits; and this bank gives them until the 1st July, 1817, a period of upwards of five months, to pay up those balances. They are, however, in the meantime, liquidated, and made to carry an interest of six per cent. Is this the distinguished and patriotic act which is to restrain further proceedings against this body corporate? It adds to its profits by the contract—liquidates a debt—receives an interest, not on its own funds, but on those of the Government—specifies a day for the payment, and this is to cover all its sins and follies. It could not better have subserved its own interests. It swelled its profits, without advancing a cent. True it agreed to throw into circulation, a given quantity of notes by the 1st of July; but, I ask, if the amount of the discounts contracted to be made are greater than, without the contract, it would have made? I cannot then discover any cause of gratitude, growing out of this proceeding? Mr. Chairman, I look to a more efficient cause for the resumption of specie payments. I look to the resolutions of the State Legislatures; to the resolution of Congress, requiring the payment of all dues to the Government to be made in

specie, or the notes of banks paying specie, after the 20th February, 1817, as the great cause of this resumption. I am disposed to ascribe more energy to the arm of this Government than to any moneyed institution.

Under every view, then, which I have been able to take, I think that the bank has forfeited its charter; or at least that it becomes us to direct the *scire facias*. If we differ on the subject of violation and forfeiture, submit it to the court to settle the question. It is the mode pointed out in the charter, and against it the stockholders can have no good objection.

There remains now but one branch of inquiry with those who do not think the creation of this corporation an unconstitutional act, viz: Is it expedient to direct a *scire facias*, or, in other words, to put down this corporation? I contend that it is. For one, I enter my protest against the banking system; a system not to be supported by any correct principles of political economy. A gross delusion—the dream of a visionary—a system which has done more to corrupt the morals of society than anything else—which has introduced a struggle for wealth, instead of that honorable struggle which governs the actions of a patriot, and makes ambition virtue; which has made the husbandman spurn his cottage, and introduced a spirit of luxury at variance with the simplicity of our institutions. I call upon the warm advocates of banking now to surrender their errors. Shall I take them by the hand, and lead them through our cities? Bankruptcy meets us at every step; ruin stares us every where in the face. Shall I be told of the benefits arising to commerce from the concentration of capital? Away with the delusion; experience has exposed its fallacy. True, for a moment it has operated as a stimulus; but, like ardent spirit, it has produced activity and energy but for a moment; relaxation has followed, and the torpor of death has ensued. When you first open your bank, much bustle ensues; a fictitious goddess, pretending to be Wealth, stands at the door, inviting all to enter and receive accommodation. Splendid palaces arise; the ocean is covered with sails; but some alteration in the state of the country takes place; and, when the thoughtless adventurer, seated in the midst of his family, in the imaginary enjoyment of permanent security, sketches out to himself long and halcyon days, his prospects are overshadowed, and misery, ruin, and bankruptcy make their appearance, in the form of bank curtailments. If this be true, and I appeal to the knowledge of all men for its truth, I demand to know if you can put down the system too soon? Can we too soon escape the dangers by which we are surrounded? I know I shall be told that, even if we put down this bank, the State banks will still exist. Even if true, the position is not a justifiable one. If the State Legislatures do not follow the example which we set them, we shall have acquitted ourselves of our duty. It is all that can be asked of us. But, sir, we actually possess the lever of Archimedes, and have a foot of ground on which to rest it. Our revenue

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amounts to upwards of twenty million dollars annually. Require but a fourth, or even a sixth, to be paid in gold or silver, what would be the effect? The merchants would collect the notes of banks and demand specie for them; and thus a test would be adopted, by means of which to ascertain the solvency of each institution. The demand for specie thus produced would have the beneficial effect of introducing more of it into the country; for money is like every other article, and will find its way to the market where it is most wanting. The system might be enlarged gradually, until your wishes should be consummated. I know the ground which I occupy, when I urge these considerations upon you. A man, regardless alone of the fleeting and ephemeral popularity of the hour, would hesitate in pressing them upon you. But I should not hold myself entitled to your countenance, Mr. Chairman, to the countenance of honest men, or, what is still more important, the approbation of my conscience, if I could be operated on by such motives or fears. Pardon me for still further extending this inquiry. There are three parties interested in the question which we are called on to decide—the stockholder, the debtor, and the Government. I contend that is to the interest of the honest stockholder to put down this bank.

The interest of the stockholder consists in the amount of dividends which he receives. At this time he receives but two and a half per cent. semi-annually. Will the dividend increase or diminish? Sir, it has constantly been diminishing, and must continue to diminish. The bank has now but two million seven hundred thousand dollars of specie in its vaults, and that sum is daily and hourly diminishing. Experience is the best guide, and that of the last three years proves, beyond doubt, the rapid and incessant drain of specie from the vaults. Let the direction be changed; let an entire new system be adopted; the East India trade will still continue, and the demand for gold and silver will remain unchanged. From what quarter, then, will the bank supply deficiencies? It originally had fifteen million dollars of United States stock paid in by individuals; all of which has been redeemed or sold, with the exception of between three and four hundred thousand dollars. This, then, would constitute but a slender reliance. To what other source will it look? It has a balance due it from State banks. Can it rely on that? A great proportion thereof is due from the Western banks; and the very instant that the Bank of the United States made a demand for specie, they have closed their doors, or stopped specie payments. Are the other banks of the Union in a better situation? Many, no doubt, are; but look to the report of the condition of the banks of this District. One has a large amount of notes in circulation, and thirty thousand dollars in its vaults *and on the road*. Whether it has more than a dollar in its vaults or not, the amount may still be true; others are in no better a situation; while some few are solvent and able to pay. This, too, is a litter of Congressional creation. Look to Pennsylvania;

a report of the condition of its banks has been made, if I am not misinformed, by order of the Legislature. They have immense sums in circulation, and scarcely paper enough to carry on their daily operations. Nay, sir, one bank, if I am not deceived, with a large amount of notes out, has not one cent of gold or silver in its vaults. A bank in Philadelphia, its title I forget, and some other of the banks, appear to have been judiciously conducted. From the other States I have seen no return which can positively be relied on. But I think the two references I have made go far to show that the United States Bank cannot rely for a supply of specie on the balances due from State banks. If it looks to the stock subscribed by Government, the commissioners of the sinking fund will be bound in duty to redeem it, if it should be brought into market, and sold either at or under par. And the payment would be made by a transfer of Government deposits, by which operation not a cent of specie might be added to the bank. But say that it is sold for gold and silver; a diminution of the dividend will still take place. The stock is an active capital, and yields five per cent. annually; convert it into money, and the bank will have made an exchange of an active for an inactive and unproductive capital. The same thing takes place if it curtails its discounts. And at this moment that is the course which it is driven to pursue. I venture nothing, then, when I predict that, for several years to come, if ever, it will not divide a greater profit than one and a half or two per cent. semi-annually. Return, then, to the stockholder his money; suffer him to use it in his own way; he will, whatever he may do in the first moment of disappointment, in the end have cause to thank you. At this moment the institution is solvent; and although I would not expressly say that it would be able to return one hundred dollars on each share, (for I have not the data on which to make up an opinion,) yet I am certain its ability would not fall far short of that point. Let not gentlemen, then, deceive themselves. The widow will not curse, but bless you; the orphan will not meet us with tears, but with smiles; the land will no longer labor under a flattering delusion; and the speculator alone, who has reduced us to our present condition, will be punished for his misdeeds.

What effect will it produce on the debtor of the bank? Let us not conjure up fancies to alarm us. It is the part of children to tremble at the appearance of danger, however unreal; it is the part of men, by facing, to overcome difficulties. My friend from South Carolina has presented you a gloomy picture of distress. I regard it as the production of a vivid imagination. Let us test it by reference to facts. The old United States Bank had a large sum due it; I believe eighteen or twenty million dollars. At the time of its dissolution, the same terrible fancies possessed men's minds. Yet the result proved them to be visionary; and the impression made by its dissolution has long since disappeared. What is the amount due to this bank? Only

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\$27,000,000, from which is properly to be deducted \$3,000,000, for individual deposits, leaving \$24,000,000, a sum scarcely equal to the revenue annually paid to the Government, without difficulty or embarrassment. But the payment would be gradual. Issue a *scire facias*, and, presuming that it would require two years to bring it to trial, the bank might thus draw in its debts imperceptibly and without any greater pressure than arises from an ordinary curtailment. This is one reason which operates on me to prefer a *scire facias* to any other remedy. But, after the charter should be pronounced null and void, this House would not hesitate to extend to it a protracted existence, to enable it to wind up its affairs. The gentleman from South Carolina thinks that it would press forthwith for payment. It would pursue its true interest, and that would induce it to prefer the mode I suggest, to the one he supposes would take place. It would not hazard the loss of debt by an imprudent haste in collecting it. In stating the amount due to the bank, I have omitted the amount on pledged stock; on a final settlement, it would balance itself.

There remains then to be considered but one other point: How would the Government be affected by a dissolution of the charter? I protest against the idea, that the Government cannot get on without this bank. We are not dependent on this corporation. Wretched indeed would be our situation if such was the case. Sir, I have every confidence in the ability and talent of the Secretary of the Treasury to devise some scheme as a substitute for the present. We shall pay too much for the facilities which are afforded the Treasury by this institution. If my previous reasoning be correct, a reduction of dividend will take place. How then does the Government stand affected? It pays annually, on the \$7,000,000 which it subscribed, an interest of five per cent. amounting to \$350,000. What will it receive? Estimating the dividend at two per cent. semi-annually, it receives but \$280,000, and thereby it will lose \$70,000 annually. Will not this be to pay too dearly for our whistle? Your old loan office system cost you not so much. But, sir, the gentleman from South Carolina tells us of the losses we sustained during the war, in the absence of this his favorite system. We did sustain losses, but what was the cause? They arose entirely from the indiscriminate reception of bank notes. If the Treasury had discriminated properly among the banks, refusing to receive the notes of any but such as were known to be solvent, the loss would not have been felt. But, even under the reprehensible procedure which then existed, we are told that the Government only sustained a loss of \$500,000. Are we blind to inconveniences of the present system? What is the fact in regard to the West? Sir, the Western people owe you many millions for the purchases of your public lands, and are unable to pay you. It is the very quarter, too, from which you expect to be able to extinguish the public debt. Those people can-

not pay. A large stream of revenue, then, here dammed up, and can no longer flow into the Treasury. Whatever inconveniences may result from it, you cannot press the collection without ruining thousands.

I do not mean to censure the bank for this state of things; but, when gentlemen take this institution to their arms, and represent it as a garment covering our errors, and an angel ministering to our wants, I demand that they shall retract their opinions. Will the country be in a better situation, should we be involved in another war, than we were during the late war? I think not. Each branch is forced to redeem its own notes. In this respect they are placed on the footing of State banks. Our internal commerce being cut off, the ordinary channels of intercourse being blocked up between the States, the current of trade will pour again from the South to the North, and a similar depreciation of the southern branch notes will take place. We shall find ourselves surrounded by as great embarrassments then, as we have lately experienced. I know the enlarged and comprehensive views of my friend from South Carolina. He surely will not consent to legislate alone for the passing hour. He would not cherish and foster a system which can alone exist under the smile of peace, and would wither and perish under the frown of war. And yet, sir, I feel that the present system is one of that description.

Would it be a task of any great difficulty to substitute another system for this? I submit it to honorable gentlemen to say whether, in the event of Government's selecting a bank in each State, notoriously solvent, in lieu of the present, we should not be precisely situated as we now are? You take a bank in Baltimore, New York, Philadelphia, Boston, Richmond, &c., known to be solvent, and bestow upon it the same countenance you bestow on the branches of this bank, limiting the reception of the revenue entirely to their notes, or specie, and giving them the public deposits. Will gentlemen assign any good reasons for supposing that the notes of such banks would not circulate as currently and uniformly as those of this institution? The note of the Richmond bank, for example, being received everywhere in payment of Government dues, would be as readily caught up by the merchant as a note of this bank, payable alone at Richmond. When you estimate the amount of specie in the vaults of such State banks as I have alluded to, it will be found greatly to exceed the amount in the vaults of this bank and its branches. There is no difficulty in devising a substitute; and, I repeat, that if the gentleman from South Carolina had united with me in devising a perfect scheme, the country would have had cause to have thanked him for his exertions. Nor is there any necessity for alarm for the safety of Government deposits. The State banks, thus selected, would most readily consent to exhibit to the Secretary of the Treasury monthly and quarterly accounts of their actual condition. There existed no difficulty on that head when the

old charter expired. Thus then the Government would render as secure its funds under such a system as under the present.

Mr. Chairman, all the reasons now urged were urged in favor of a renewal of a charter of the old bank, and yet they did not prevail. The members of the then Congress went fearlessly and boldly to work. Difficulties did not appal them; fears did not unnerve them. Shall we be less resolute? Sir, when this bank was created, the then Secretary of the Treasury represented it as an indispensable measure to support our credit. He represented the purses of our citizens to have been emptied by the excessive loans they had made to the Government. He could go no further: a loan was contemplated to be obtained from this bank. I confess I regard it with fear and trembling in this respect. It would be an act of political suicide to borrow a large sum from this bank; and yet, fancy yourselves surrounded with difficulties and embarrassments similar to those we have lately escaped from—the expedient of the moment would be resorted to; a large issue of paper would thus take place, and an irredeemable character be stamped upon it. Then, indeed, might we bid adieu to all our happiness and all our wealth. Public confidence would wither like the blighted plantain; that noble spirit of enterprise, which has characterized our citizens, would perish and decay; the merchant would bid adieu to his counting house; the farmer would sigh over the waste of his fields. Why should the one encounter the storm of the deep, or the other witness the sweat of his brow, when, for their hardships and labor, they would be paid in a worthless currency, of no intrinsic value in itself, and constantly undergoing a depreciation in value? I entreat gentlemen to arrest the evil now that they can. Sir, I was astonished at the argument of the honorable gentleman from South Carolina. He contended that the great object of the charter had been answered; that every facility had been afforded to the operations of the Treasury, and, therefore, that no forfeiture had ensued. What is this but to say to the bank, take care only to be the glove to the hand of the Treasury; obey its wishes; facilitate its schemes and operations, and do whatever else you please—you shall not be arrested; swindle, and cheat, and deceive the unthinking people of this country, without mercy and without end; only take care to secure the smiles of the Treasury, and all shall be smooth and well? Is it not actually granting to the bank a patent to offend? It is only necessary that it should apply at the Patent Office, and receive its license under the sign-manual of Doctor Thornton. I cannot listen to such a position. I call upon the warmest advocates of this system, although I am satisfied that that call is in vain, to unite with me in this measure. You have been disappointed in your wishes, in your expectations. Instead of a system abounding in blessings, it has been converted into an instrument of corruption. Cold unfeeling speculation has usurped the place of honest dealing. Are we not

too young to encourage such a state of things? Our Republic can only be preserved by a strict adherence to virtue. It is our duty, if we consult our eternal good, to put down this first instance of detected corruption, and thereby to preserve ourselves from its contamination. The bank is already interwoven with the affections of many; its influence will become every day more and more extensive, and, if we suffer this opportunity to escape, we may sigh over our unhappy condition, but that will be the only privilege which will be left us. Let my fate be what it may, I have discharged my duty, and I am regardless of the consequences.

MONDAY, February 22.

Mr. RICH, from the Committee of Claims, to which was referred bills from the Senate of the following titles, to wit: "An act for the relief of Michael Hogan," and "An act for the relief of Pierre Dennis de la Ronde;" reported the said bills with an amendment to each; when it was ordered that the said bills be committed to the same Committee of the Whole to-morrow.

Mr. POINDEXTER, from the joint committee appointed to inquire and report what business it will be necessary to act upon during the present session, made a report; which was read, and ordered to lie on the table.

On motion of Mr. WHITMAN,

*Resolved*, That the judges of the courts of the several districts of the United States be requested to prepare and transmit to the Speaker of the House of Representatives, as early as may be, at the next session of Congress, a schedule of fees of office, proper to be allowed and taxed for the officers of their courts respectively; and that the Clerk of this House cause each of said judges to be furnished with a copy of this resolution.

The bill supplementary to the act for the relief of Benjamin Wells was taken up and ordered to a third reading.

The bill from the Senate supplementary to the several acts concerning the coasting trade was read the third time, as amended, and passed.

The engrossed bill in addition to the act supplementary to the act for the relief of Thomas Wilson; and the engrossed resolution prescribing the mode of naming the vessels of the United States, were severally read the third time, and passed.

The engrossed bill for the relief of the heirs of William Reed, was read the third time, and, on the question of its passage, was rejected.

On motion of Mr. LOWNDES,

*Resolved*, That the Secretary of the Treasury be instructed to inform this House whether any, and, if any, what part of the balances transferred from the State banks to the Bank of the United States under the second article of the compact between them, for which balances the Bank of the United States was to receive interest, were retained by the Bank of the United States as special deposits, for which it was not obliged to pay specie upon demand.



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On motion of Mr. PINDALL,  
*Resolved*, That the Secretary of the Treasury be instructed to inform this House whether any, and, if any, what part of the balances transferred from the Treasury to the United States Bank, under the second proposition of its agreement with the receiving banks, of the 31st January, 1817, were drawn from the Bank of the United States by any department of Government, between the 31st January and 1st of July, 1817, exclusive of the sums required by the Treasury, under the exception contained in the second proposition.

#### DEAF AND DUMB ASYLUM.

Mr. TERRY, from the committee to which was referred the petition of the Connecticut Asylum, for the education and instruction of deaf and dumb persons, made a report, which was read; when Mr. T. reported a bill in behalf of the Connecticut Asylum for teaching the deaf and dumb; which was twice read, and ordered to lie on the table. The report is as follows:

That an association of a number of citizens of the State of Connecticut was formed in the year 1815, for the purpose of establishing a school for the instruction of the deaf and dumb. Finding great numbers of this unfortunate description of persons in our country without education, and without any attempts being made to give them the education which they are capable of receiving, and actuated by a benevolent desire to rescue them, as far as was practicable, from their state of ignorance and degradation, and to fit them for social intercourse and happiness, the associates, by voluntary contribution, raised a sum of money sufficient to defray the expense of sending the reverend Thomas H. Gallaudet to Europe, for the purpose of learning the modes of instruction practised there. Mr. Gallaudet went to England, to Scotland, and to France. In London, he did not find a disposition in the teachers to communicate instruction so readily as the benevolence of his mission seemed to entitle him to expect; but he had the good fortune to meet there the Abbe Sicard, the principal of the institution for the instruction of the deaf and dumb at Paris, a gentleman distinguished for talents, benevolence, and devotion to the interests of these unfortunate persons. The Abbe assured him that, if he would go to Paris, every facility should be afforded him of acquiring a knowledge of their modes of instruction; which assurances he found fully realized upon going there. The Abbe kindly took him into the school, and explained to him everything relating to their modes of instruction and management; but Mr. Gallaudet found that the time which his arrangements would permit him to spend in Paris would be much too short to enable him to acquire the knowledge necessary for an accomplished instructor; and having become acquainted with Laurent Clerc, a pupil of the Abbe, and for eight years an assistant instructor, he engaged him to come to this country as an instructor in the school about to be established in Connecticut. They arrived here in August, 1816, and Mr. Clerc is still an assistant to Mr. Gallaudet in the Connecticut Asylum. The Legislature of Connecticut, in May, 1816, incorporated the said associates by their aforesaid name. There are at present in the school more than fifty pupils, from the States of New Hampshire, Massachusetts, Vermont, Rhode Island, Connecticut, New York, Pennsylvania,

Maryland, Virginia, and Kentucky, who are taught by five instructors, and who pay \$200 per annum, each, for tuition, board, washing, and lodging. The institution is open for the reception of pupils from every part of the Union; but its funds (which have arisen almost entirely from voluntary contribution) are too small to admit of its becoming extensively useful; they are not sufficient even to erect the buildings necessary for the accommodation of the present number of pupils.

Considering that this institution is calculated not only to afford instruction to the deaf and dumb, who are to be found in all parts of our country, but also to qualify teachers for other schools which may be established in other parts of the Union, and considering that it is the first attempt of the kind in the United States, and that it has been raised to its present condition by the care and at the expense of charitable individuals, most of whom had no particular interest in its success, the committee are of opinion that it is worthy of the patronage of Congress, and that the prayer of the petition ought to be granted; and for that purpose they report a bill.

#### BANK OF THE UNITED STATES.

The House again went into a Committee of the Whole, (Mr. BASSETT in the chair,) on the subject of the Bank of the United States—Mr. JOHNSON's motion to repeal the charter still under consideration.

Mr. TYLER concluded the argument which he commenced on Saturday in favor of the motion, and in reply to Mr. LOWNDES, occupying nearly two hours to-day—as given entire in preceding pages.

Mr. McLANE of Delaware, said that the late period of the session, the mass of important business yet remaining to be transacted, and the impatience manifested by the Committee in the course of this debate, though upon a subject of such magnitude, admonished him of the impropriety of tasking their attention for any great length of time. He would not have participated in the debate at all, if he had not had the honor to be a member of the committee whose investigation and report had given rise to the present discussion, and if it had not been his lot to differ in opinion with a majority of his colleagues on many of the most important matters in the report. On this account, he believed it a duty he owed to himself and to the House, to state the views he entertained, and the reasons upon which his opinion had been formed.

The able and detailed remarks of the gentleman from South Carolina (Mr. LOWNDES) would save him much trouble, and justify him in abridging the observations which he otherwise should have felt it his duty to make.

Mr. McLANE said, he entirely concurred in most of the views and opinions which had been expressed by the gentleman from South Carolina, unless, indeed, he was to be understood as denying the existence of any abuses whatsoever, in the conduct of any of those to whom the management of the Bank of the United States had been confided. [Mr. LOWNDES here stated that it was certainly not his intention to make

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any such denial.] Mr. McL. said, he was sure it could not be denied that many abuses had been committed by some of the individual directors, though, perhaps, in many instances, in their unofficial character. He said, he had entered upon the arduous and responsible duties assigned to him, with no unfavorable impressions towards the institution; and though he had heard numerous charges made against it, from various quarters, they had been unaccompanied by such proof as would be calculated to make a serious impression. In patiently investigating the circumstances under which the institution commenced its operations, and continued its progress, and in tracing its management, and the transactions of its officers—he had seen much to admire—something too to condemn, and in the conduct of some of the directors and other officers, something to reprobate. But he had nowhere discovered abuses of so enormous a character as to be remedied by milder correctives than total extinction of the incorporation—a measure carrying in its train the most disastrous consequences to all parts of the community. He would not now detain the Committee in a particular consideration of the different acts which in his opinion were or were not abuses; or of the degree of censure which they merited. He did not consider himself here as the accuser or defender of the bank and its officers; but, as a Representative of the American people, called to decide upon the propriety of certain important measures, intimately connected with their interests and prosperity. Of these, he should not be unmindful, because of the mismanagement in the Bank of the United States, and so far as he deemed it material, to adjust the decision upon these measures, to express his opinion in regard to the condition of the bank and the conduct of its officers, he should take occasion to do so in the course of the observations he should have the honor to make.

Mr. McL. said there were three propositions before the Committee. The first proposes to pass a law repealing the charter heretofore granted, incorporating the bank; the second, to direct a *scire facias* to compel a forfeiture of the charter; and the third, to direct a *scire facias* to be hereafter waived, if the corporation will consent to certain modifications of their charter. He said he was opposed to all of them.

He denied the Constitutional power of Congress to pass a law repealing or dissolving the charter, and he said the arguments of its advocates proceeded upon mistaken principles, even in regard to the common law, whence some of them had drawn their deductions.

The honorable mover of this proposition (Mr. JOHNSON of Virginia) contends, that the law granting the charter is wholly unconstitutional, that common and civil law are both inoperative in the United States, and therefore, that, as we cannot resort to the remedies afforded by either of these, we have nothing left but to repeal the charter by an act of Congress. But, Mr. McL. said, if the honorable gentleman were correct in his premises, he would be left without any law

at all, excepting the mere arbitrary exercise of power. The charter, however, had relieved us from these embarrassments, by prescribing a remedy whenever a forfeiture should be incurred, the only event in which, as he should contend, Congress could interfere. Another honorable gentleman who followed the mover, in support of the proposition to repeal (Mr. PINDALL, from Virginia) insists, that the common law is operative in the United States, and contends for the right to repeal, in virtue of the power exercised by Parliament, and the visitatorial power, which he says is, in this instance, in Congress, as the founder of the incorporation. If the gentleman were right, in supposing the visitatorial power to be in Congress, and susceptible of use as extensive as in England, it would not support his position. For, said Mr. McL., the visitatorial power is not a destroying, but a correcting, remedial power. The visitor has no power to destroy the being of a corporation. His office and authority are founded, in the language of the best writers, "upon the supposition that corporations, being composed of individuals subject to human frailties, are liable, as well as private persons, to deviate from the end of their institution; and for that reason, the law provides proper persons to visit, inquire into, and correct all irregularities that arise in such corporations." Although in England, this visitatorial power has a very extensive operation, I never heard of an instance, I believe none can be furnished, in which it attempted to dissolve the corporation. Nor is the power necessarily in the founder; it may be in any other person designated by the charter, and though in England the King is considered as the general founder, and the visitor, if no other be named, he never exercises his power in his own person, but always in his courts of justice; before whom the corporations are brought by proper process; are heard in their defence, and the abuses or irregularities, if any are found to exist, are corrected. The King himself cannot dissolve a corporation of which he was the founder, and which he may have created by letters patent; it can only be done by the interference of Parliament; than which, a more conclusive argument could not be afforded, that the visitatorial office does not possess the power of dissolution. It is unnecessary, at present, to institute any inquiry into the nature of this power, in this country, or in what department of the Government it may be vested, since, wherever it may be vested, it would give no authority to repeal the charter. The powers of Congress are clearly defined in the charter; the means of enforcing a forfeiture are distinctly provided; and the control of the Secretary of the Treasury over the public deposits is sufficient for ordinary cases. It may well be questioned, however, whether any greater power than this exists in any department of the Government.

But gentlemen say, that one Legislature has the same power that another had, and that therefore we may repeal any law that a preceding Congress passed. This principle cannot be con-

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troverted, as it respects general legislation, affecting public rights and general police; but if an act be done under any law, a succeeding Legislature cannot undo it. Where a law is in its nature a contract, as all grants are, and absolute rights have vested under the contract, a repeal of the law cannot divest those rights. This is the nature of the law in question. Congress, in giving this charter creating the corporation, granted to the individuals who should become members of it, certain privileges and franchises, and stipulated, upon the faith of the Government, that they should enjoy it for a definite period; it granted them the right of becoming a corporation and carrying on the business of banking, or owning property in the stock of the institution, and of exercising all the privileges of ownership for the same period of time. Under this grant, these rights have become vested interests, as much so as a right to take toll for twenty years, or a right to a fee simple interest in land, where, by an act of Congress, the title has been granted to an individual. As such they are considered in all countries, under our own laws, and by the decisions of our own courts. They are so treated in England; though there a charter may be dissolved by an act of Parliament, because of the attribute of omnipotence with which it is invested, and by which it rides over public and private rights with the same supremacy. Happily for our country, no branch of our Government is clothed with this attribute. Here, every department of our Government is controlled by precisely defined principles impressed upon their first institution. In England the legislature makes and controls the Constitution. Here, the Constitution limits and controls the legislature. Here the legislative power can make no "ex post facto law, or law impairing the obligation of contracts," and "no person shall be deprived of life, liberty, or property, without due process of law." The provision applies equally to contracts in which the public are the party, and where individuals only are concerned. If possible, it applies with greater force, since the public faith ought, at all times, to be sacred and inviolable. In the formation of our Government, its different powers are apportioned among the respective branches, each acting in its appropriate sphere: the legislature makes the law, or authorizes the grant; the judiciary expounds them, and hears and decides all matters of litigation, and the executive superintends their execution. If individuals in the community have conflicting claims, arising under the laws of the United States, either in contract or otherwise, the judiciary is the tribunal to which their rights are referred.

The public authorities, as it regards their contracts, cannot claim, nor should they desire to claim, any other exemption. The Legislature should carefully abstain from the exercise of mere arbitrary power. As they value the stability of our institutions, they "must in all cases submit their pretensions to those tribunals established for the security of property, and to decide

human rights." We cannot therefore repeal this charter, nor can we claim to be released from the performance of our stipulations in good faith, unless the condition upon which the grant was made, and the individual rights vested, have been broken. But this can only be ascertained by due process of law. If we allege that it has been broken, we are bound to prove it; we must resort to the Judiciary; we must afford the party whose interests and property are to be taken away, an opportunity of being heard. The Bank of the United States has not yet been heard. The proceedings, so far, have been *ex parte*. He did not mean to say that the investigation had not been conducted impartially, and with good faith. He was sure it had been so conducted, but still it was *ex parte*. The report of the committee is, at most, but the finding of a grand jury; it concludes nothing. To pass a law repealing the charter, therefore, would not only be an assumption of judicial powers, which do not belong to us, but it would be deciding in our own cause, in our own favor, and without hearing the opposite party.

But gentlemen say that the law incorporating the bank was unconstitutional, and that therefore we are not bound by it, and may of course repeal it. Mr. McL. said that, although he entertained no doubt that the law was Constitutional, and that it could easily be demonstrated to be so, he should not discuss that question, since he insisted that we now had no right to discuss the validity of the charter. He held it to be an essential principle of our Government, that any law once passed by the regular authorities was to be taken to be Constitutional, until the judicial tribunals should decide otherwise. The safety of our institutions, and the faith of individual transactions, depended upon this principle. The Congress of the United States is a party to the grant of this charter—to the contract under which private rights have become vested—and for a party to decide his own deed to be invalid, whatever cause may be assigned for its invalidity, would manifestly be an act of bad faith; it would be a mere act of power, without the shadow of right. The Congress who granted the charter would have had no right to say so, and it will not be pretended that we have greater powers than they had.

But, Mr. Chairman, said Mr. McL., this repealing law, if passed, would be nugatory, and of no effect. Gentlemen have not yet claimed for Congress that omnipotence which would authorize us to revoke our own grants, and annul our own contracts, as a mere matter of power and caprice. They have admitted that either the original law must be unconstitutional, or a breach of the condition on which it was granted must be committed, before Congress can interfere. Now, if the charter were unconstitutional, it would be absolutely null and void without the repealing law: the repealing law could not make it more so. It could only add one more question to the matters in dispute, and it would immediately be contended (and he thought with much

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greater propriety) that the repealing law was unconstitutional and void, and that the charter was good. If we proceed upon the ground of a breach of the condition, the effect of our law, even in the contemplation of its advocates, would depend upon the fact; and, in both instances, the Judiciary would have to decide the controversy. For even in England, where the power of dissolving an incorporation is in Parliament, the act passed for that purpose is always enforced in the Court of King's Bench; and, until the court pronounces the judgment, the corporation continues the exercise of its franchises. In this instance gentlemen may be assured that the stockholders of the Bank of the United States would not voluntarily acquiesce in the law. We should be compelled to resort to the Judiciary for some process to enforce it, (if indeed gentlemen would be able to devise any, in the absence of all common law, and under a void charter,) and at last a hearing would take place, and the Judiciary would decide between us.

But, Mr. Chairman, said Mr. McL., it clearly results, from all that has been said, that, after granting this charter, under which there now exist vested rights, we are bound by our own act, unless a forfeiture has been incurred. In such an event the Government, as a party to the contract, have stipulated the remedy, and the mode in which the question is to be tried, and the forfeiture enforced. We have stipulated that if, after a committee of either House of Congress shall have reported that the charter has been violated, we deem it expedient to vacate the charter, we will direct a *scire facias* to issue; and we have secured to the corporation the right of trial by jury, and the judgment of the court, before their rights can be affected. This is a solemn stipulation, made for the mutual benefit of both parties; we cannot depart from it, without an utter disregard of the national faith.

Before we resort to this remedy, Mr. Chairman, we should be satisfied, in the first place, that the charter has been forfeited; and, secondly, that it is expedient to enforce a forfeiture. For, although the act vests you with the power to direct a *scire facias* after your committee have reported a violation, it does not make it obligatory upon you to do so, even should you concur in opinion with the committee. It leaves you with the important option and privilege, possessed by every individual, of taking advantage of a breach of contract by the opposite party, or of waiving it, at your pleasure; with this material difference, that in the case of the individual, he considers only his personal feelings and interest; in the instance of the Government, it is to consult, not its feelings, but the interests and welfare of the whole nation. In the exercise of this privilege, therefore, national safety and individual happiness, private rights, as well as public policy and public good, are all-important considerations. There is also every reason why it should be clear that the violations reported would be sufficient to inure a forfeiture; not only because such could be the only legitimate objects of the proceed-

ing, but, if the question were doubtful, it would be inconsistent with the duty we owe to that part of the community whose interests are involved in the institution to direct a *scire facias*. The inception of such a proceeding would be very apt to be fatal to the bank. It is an institution subsisting upon a sound credit, and the confidence the community entertain in its existence and permanence. If these are once shaken, there is an end of its utility—of its entire capacity. Imputations of impurity are not more fatal to the fair and just superiority and loveliness of the female character, than would be those of instability and weakness against the credit and confidence of this institution. They would leave it exposed to the assaults of every petty hostility. A *scire facias* would be invested with the expression of the deliberate opinion that Congress—an opinion always entitled to great weight with the American people—that a forfeiture had been incurred, and public calculations would be made accordingly. A loss of public confidence would ensue; a general pressure by its creditors from all quarters; a depreciation of its paper; the withdrawal of private deposits, and, of necessity, those of the public;—would be the inevitable consequences. And when it is considered that this state of things would continue, and gradually become worse, during the time that would necessarily elapse before the question could be decided, it appears to me impossible that the bank could survive the shock, although the charter should be ultimately sustained.

Is it clear, then, said Mr. McL., that the acts of violation reported by the committee will enure a forfeiture? He believed not; he was persuaded that the courts of the United States would not decree a forfeiture on the ground of any or all of these acts. He would not deny, that, in these cases, some of the provisions of the charter had not been literally complied with; though in none of them had the spirit or intention been evaded, or the great and leading ends and objects of the institution been defeated. He observed, that the doctrine of a forfeiture of charter, and especially in regard to the acts which would or would not produce it, was a novel one in this country, and obscured in some difficulty. The annals of our own history afford us no precedents, there never having been, to his knowledge, an attempt to forfeit a charter in the United States. The cases which have occurred in England, whence we so often draw our legal authorities, are extremely vague and unsatisfactory. They were proceedings in times of great trouble and confusion, when the law was unsettled or little understood, and when the justice of the case, or the rights of the parties, were as little regarded. In most instances they originated in the ambition of the Crown, or in its hostility to the particular corporation whose dissolution was desired; and were mostly made by judges either corrupted or overawed by the power and influence of the Crown. The principles upon which a charter would be decreed forfeited on one day, in a short time afterwards would be reprobated by Parliament, and

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the franchise restored, as the political temper of the times happened to predominate. They do not, therefore, partake of the stability of other decisions; and, valuing as we do the freedom of our institutions, and the certainty of our laws, are entitled to no credit in our country. The honorable gentleman from Virginia (Mr. TYLER) has referred us to the famous case of the city of London, in the reign of Charles II, as the source whence he draws his learning and his principles upon this subject. But his friend must have forgotten the character of that case, and the circumstances under which the decision was made. It is a case from which little purity of doctrine can be extracted. It occurred in the time of a prince of a very unsettled character, and of a lawless ambition; of whom it has been observed, "that he never said a foolish thing, or did a wise one;" and in the path of whose tyranny and ambition the laws interposed no barrier. The proceedings against the city of London were the result of the political ambition of the Crown; and "the head and front of the offending" was, a libel on the King. In that case, too, even in England, it was then made a question whether a charter could be forfeited, no decision having previously been made, and though it was decided affirmatively, and the forfeiture actually decreed, yet, afterwards, when the feeling in which the persecution originated had subsided, Parliament restored the charter, because it had been unjustly forfeited. The historians of those events, associating the judges of that day with this transaction, and who, holding their commissions at the pleasure of the Crown, were generally the instruments of its tyranny, stamp them with a corrupt devotion to the views of the Court, regardless alike of the rights of property, and of human life. If, however, this case of the city of London could be referred to, it would prove nothing for the argument; since it is uncertain whether the being of the corporation ever was absolutely forfeited. On the contrary, it may be inferred, from the records of those proceedings, that it still subsisted, and that the seizure was a seizure only of the Mayoralty, notwithstanding which the citizens exercised all their corporate rights, except that of choosing their own Mayor. It may be observed also, that in this, as in all the other cases in England, that they were generally cases of incorporated towns; and the acts complained of as working a forfeiture, were acts of oppression upon third persons, not members of the corporation, and in violation of the positive laws of the land: rather the assumption of new powers, than the irregular exercise of powers clearly granted by their charters.

Under all these circumstances, Mr. McLANE said, the only safety and sound principles were to be drawn from the charter of our own institutions, from the nature of the grant, from the nature of these artificial persons as created by the acts of Congress, and the great ends which the aggregate of their component parts was designed to accomplish. Admitting, therefore, said he, that the charter of a corporation may be forfeited, by acts

of mis-user or non-user; he contended that they must be corporate acts, and amount to a breach of the condition upon which the corporation was created, by rendering the corporation incapable of acting in its corporate capacity, and of performing the objects of its incorporation. All acts of mis-user or of non-user, less than such as he here referred to, were to be corrected by the visitatorial power, where it exists, or by milder means than the destruction of the being of the incorporation. If a corporation neglect or refuse to appoint officers, through whom only it can act, and where no provision is made for such an event, it might thus be rendered incapable of performing its functions, though in England this is now declared to be no cause of forfeiture; but, if after it elects its officers they misbehave, though in a degree not subversive of the great ends of the incorporation, their misconduct may be corrected, but there can be no forfeiture, for this reason, of the charter. As in the natural, so in the legal or artificial person, the entire annihilation of its being is considered a desperate remedy, never to be resorted to until all efforts to reform, by milder means, have proved abortive. The corporation must be wholly unable, either by utter incapacity, or by a total subversion of all its faculties, from complying with the condition of its existence, or from performing its functions in the community; and the objects of its institution must be altogether unattainable, before its complete dissolution can be decreed. The acts of mis-user should lead to the same result, and be productive of the same incapacity, as those of non-user, in order to furnish a ground of forfeiture, and before its being can be destroyed.

Mr. McL. said there was a wide distinction between the condition of the charter and the numerous provisions generally contained in it, designed to enable the corporation the better to comply with the condition. These latter are often made for the benefit of the corporators, and to furnish them with the means of their own government; and though it would always be proper to conform to them, yet for a departure from some of them, if in doing so the great ends of the institution are not defeated, and its capacity to comply with its condition not impaired, there cannot, in the nature of the case, be a forfeiture. They are to be corrected by the visitatorial power. The very existence of a visitatorial power evinces the truth of this doctrine. There would be no occasion for this power if every violation of any provision in a charter incurred a forfeiture of its being. If such a violation would incur a forfeiture there would be no safety or stability in any corporation. Different men may take different views of the same provision. There may be many acts of the officers of the institution of which the corporators could have no knowledge, and equally opposed to their interests and those of the public. They may refuse to a man an office to which he is entitled by the provisions of the charter. He may apply to be restored, but it would be a singular remedy to annihilate the charter, and, with it, the office. The directors

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may lend money to a man professedly insolvent, and should be liable for the debt, and corrected for the misconduct; but it would be a fatal specific to destroy the whole being of the corporation, and involve the stockholders in greater ruin for this irregularity. In all such cases, the visitatorial power in England, by means of a mandamus from the Court of King's Bench, applies the remedy; and where this remedy is effectual the work of destruction is never resorted to.

The act of violation, said Mr. McL., must not only amount to a breach of the condition, but it must be the act of the corporation; and, if practised by the officers, must be an official corporate act. Innocent stockholders should not be answerable for the misconduct of their officers, unless within the limit of their authority. If an individual director improperly avails himself of his public condition to promote his private speculations, it is not such an act of official abuse for which the corporators would be liable, or for which the charter would be forfeited; and therefore, all the improper conduct of some of the individuals who have been directors in this institution, and which has fallen under the severe animadversion of the honorable gentleman from Virginia, (Mr. TYLER,) are not such acts as would work a forfeiture. They are acts which I do not mean to justify or excuse—which I will unite with the other members of the committee in visiting with the severest reprehension. But they are the acts of these individuals alone, in which the rest of the committee had no share—of which they had no knowledge until the committee exposed them, and for which, they are, therefore, in no degree culpable. Punish the individuals concerned in them, if you please, but do not involve in indiscriminate destruction the innocent and the guilty.

Mr. McL. said, if these principles were correct, a more particular examination of the acts of violation reported by the committee would show that no forfeiture had been incurred. The first act of violation was the purchase of two millions of the public debt for the Government of the United States. Mr. McL. had never believed that this act afforded the slightest ground for a forfeiture, if it could be supposed any violation at all. The provision in the charter could have designed nothing more than to prevent the bank from purchasing stock with a view to become the owner of it. It was intended, as had already been remarked by the gentleman from South Carolina, to prevent the bank from going into market in competition with the Government. In purchasing this stock they did not mean to hold it; they bought for the Government of the United States, under an arrangement made with the Secretary of the Treasury. The Secretary of the Treasury insisted upon the right to redeem this amount of stock, which the bank legally sold. Mr. McL. believed the Secretary was wrong; but, be this as it may, the bank, to avoid difficulty, purchased so much stock for the use of the Government. They were, at no period, the absolute owners of the stock. They were the trustees of the United

States, under the arrangement, from the moment of the purchase; and, by a transfer to the Government completed the transaction. It was a losing bargain for the bank, and the Government was censurable on this account. But, Mr. McL. inquired with what face he could now insist upon a forfeiture for this act, committed for the interest of the Government, and forced upon the corporation by Government? He could not suppose it necessary to expend more time upon this part of the subject.

The second act of violation was that of discounting for the coin part of the second and third instalments. Mr. McL. said he would not consume the time of the Committee in an inquiry into the policy or impropriety of the measure. He would content himself with remarking that, in his opinion, it was unnecessary. He believed it would have been better for the institution if it had gone into operation upon the amount of the subscriptions. Its progress, perhaps, would have been slower, but, he believed, surer, in the end; and it would have prevented those speculations in the stock of which so much complaint had been made. Those who had the management of the institution, however, and who understood all its springs, thought differently, and their opinion was certainly entitled to some weight; and whether it were wise or unwise, if they possessed the right to do so, and if in doing so they did not defeat the great ends of the institution, and break the condition of the charter, it is no forfeiture.

Gentlemen are in an error in supposing that this provision was the great condition of the charter; it is only a provision, and an important one truly, to promote the performance of the condition. The subscribers to the bank are incorporated, and invested with the right to carry on the operations of banking; to lend money and issue notes; and the fundamental condition of this grant is, that they shall at all times pay specie for the notes thus issued, upon demand; that they shall pay a certain sum to the Government, and make loans to a certain amount, and furnish other facilities enumerated in the charter, and not violate any of the laws of the country. The motives of policy which recommended the charter, form no part of the condition. The particular provision alluded to, therefore, was not designed so much to constitute a condition of the charter, as to create an obligation in the stockholders to pay up the amount of their subscriptions, and to designate the time at which the corporation would have the right to make the demand. This is evident from the penalty being imposed on the delinquent stockholder for non-payment. There is no penalty imposed upon the corporation for not enforcing payment in case of delinquencies. If any individual stockholder had neglected or refused to pay his instalment at the time it became due, it will scarcely be contended that he would have forfeited his corporate rights, and have been liable to be removed, as a corporator. The corporation might have brought suit, and withheld the dividends until payment was made; but the individual would still have con-

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tinued a member of the corporation. If, then, the neglecting to pay by the stockholder would not have forfeited his membership under this charter, the neglect on the part of a majority would not have had a greater effect; much less would the forbearance, on the part of the directors, to sue in case of a delinquency, or even their aiding the payment, work a forfeiture of the charter, and dissolve the being of the corporation. It is by such a course of reasoning that the right of forfeiture is inferred: for it was said, in the case of the prosecution against the city of London, before adverted to, "that, as every member may forfeit that which any member may, the same acts which will forfeit the right of every member, separately considered, if done jointly by all the members, will have the same effect, or, in other words, will be a forfeiture of the existence of the whole corporation."

If, then, this charter did not mean to forfeit the right of any one member, for the non-payment of his instalment, as I contend it did not, neither did it design to forfeit the existence of the whole corporation, if all the members neglected. But, sir, said Mr. McL., the bank was authorized to go into operation after the subscriptions should be completed, and before the second instalment became due; and the second instalment could not, therefore, have been considered as necessary to its operations. In giving this authority, the charter must have authorized all its consequences. The bank did go into operation in the manner and at the time prescribed by the charter. Being legally in operation, it had the legal right to discount and lend money to whomsoever it pleased, and to any amount, taking the risk of the penalties imposed by the charter. If the directors exercised this right indiscreetly, they violated their trust to the stockholders, but the incorporation incurred no forfeiture. Suppose, sir, that, without passing any of the resolutions referred to in the report, they had gone on to discount, no one would censure them for discounting to stockholders, on a pledge of stock. For my own part, I am free to declare, that I think loans on stock, if not disproportionate in relation to the wants and business of the rest of the community, are the safest and best; nor would they have deserved censure if they had given a preference to the stockholders, which, in fact, would be the necessary consequence of giving preference to stock loans, as the discounting to stockholders was the necessary effect of lending on stock security at all; neither could it have been incumbent upon the directors, or proper for them, to inquire into the application of the proceeds of the discounts. If, then, they had discounted to stockholders, which would have been both legal and proper, the persons obtaining the loans would have drawn out the notes of the bank; with these notes they would also have drawn the specie, and then returned it back in payment of the instalments. Such an operation would have been payment; by such an operation the individual stockholder would have complied with his engagement, aided, it is true, by the bank; but, in the exercise of a

legal right—the right of lending money, and discounting in the regular course of banking operations—no other effect is produced by the discounts under the resolution. If it were not illegal to discount to a stockholder, and suffer the application of the proceeds to be made in payment of the instalment, which could not have been prevented without a resolution, he was at a loss to conceive how a resolution to discount could create the illegality. One distinction is, that, instead of resolving to discount at the time the paper is offered, the resolution is made before any application for discount is preferred, and the object honestly avowed. Another distinction is, that the discounter, instead of drawing the specie, merely for form sake, leaves it in the bank to his credit; in effect, he has deposited so much specie, and his bank book is the certificate of the fact; but these are rather distinctions without a difference. The honorable gentleman from Virginia (Mr. TYLER) has admitted the correctness of this operation, in regard to the third instalment; and I cannot perceive any discrimination, in point of principle, between the third and the second. Mr. McL. said, it should here be remembered that this exercise of the legal right did not, in any degree, incapacitate the bank from performing all the great objects of its incorporation, whether as matters of condition or policy. It has at all times performed them in good faith; it is yet daily performing them. It has, in no instance, ever refused to pay its notes in specie, on demand; it has essentially contributed to the wants and enterprise of the community; it was enabled sooner to extend its operations, and diffuse its influence more widely, and to act with greater promptitude and more efficiently; it enabled the State banks to resume specie payments earlier than they otherwise would have done; it has never failed in any of its stipulations with the Government; but, on the contrary, has always furnished it with great and continued facilities. It was not certain, nor even probable, at the price specie then bore, that the withholding of the dividends from the delinquents would have compelled the prompt payment of the second instalment, and the right of suing afforded no greater means for this purpose. By the mode adopted, the operations of the bank were considerably quickened, the interest of the stockholders advanced, the public good promoted, and the means acquired of certainly compelling payment in the space of sixty days, by a mere sale of the stock. In point of fact, the arrangement was executed in good faith; and the investigation I have made, authorizes me to say that, with very few exceptions, and these to a small amount, payment was punctually made as the notes became due. My honorable friend from Virginia (Mr. TYLER) has insisted that the bank was bound to bring suit, and ought to have done so. But, sir, I deny that there was any such obligation; it would have been strange, indeed, if there had been, since the right to sue, and the propriety of exercising such right, involves considerations of great moment, which could not

have been foreseen, and generally depend upon the state of things existing at the time the right accrues. If the penalty prescribed by the charter failed in its effects, there was no obligation to go farther; it became a matter of sound discretion with the directors, to adopt the course most consistent with the character of the bank and the state of the community; and if it appeared probable that the penalty would be ineffectual, it was the part of a wise and prudent foresight to anticipate and provide against the evils which might ensue. Suppose the bank, however, to have sued, and to have refused to discount to a stockholder, merely because he was such, (which is indeed a presumption at variance with the best notions on the subject,) would a different effect have been produced, or would the condition of the bank have been improved by the proceeding? The suits must have been commenced in various parts of the United States, wherever the delinquent stockholder happened to reside; in some a longer, in others perhaps a shorter time, but in none less than eighteen months would have been required to obtain judgment. The diversity of tribunals to which the bank would thus have been compelled to resort, would have increased the delay and expense, and multiplied difficulties without number; and, after all, there could have been no security in the uncertain and embarrassed state of things at that time, that, at the end of the race, the stockholder would have been solvent. In the meantime, it would have been the duty of the bank, with a faithful regard to the interests of the punctual stockholders, and the Government, and to the welfare of the community, to have made discounts and carried on its operations: by this means its notes must have gone into circulation, and judgment being obtained in the cases in which suits may be supposed to have been brought, the defendants would either have gone into court with the notes of the bank, and paid the judgment, or first drawn the specie, and then paid it, in discharge of the suit. The moment the bank went legally into operation, this result was inevitable; and I cannot perceive how the mode of exercising a legal right can be construed to work a forfeiture of the incorporation.

The third act of violation consists in paying dividends to stockholders who had not completed their instalments. The facts upon this point being correctly ascertained, there will be no occasion for little, if any argument in regard to it. It is in proof that, according to the regular course of business, "when a stockholder came to pay his instalment after the regular period, but before any dividend was declared, interest, at the rate of six per cent. per annum, was paid by him, on the amount of his second instalment from the 1st January, 1817, to the time of his paying up. If he came to pay his second instalment after the dividend was declared, viz., 7th July, 1817, the first dividend was considered as forfeited, and interest on his instalments was paid from the 1st July, 1817, to the time of his paying up." The general rule of business on this point, was, therefore, in strict conformity with the words of

the charter, and the exceptions which have been pointed out, were rather in obedience to the sound spirit and intention of the provision, than a departure from the words. There were but four instances in which the rate was not strictly adhered to, and enforced: the shares of all the four amounted to three hundred and sixty-five; one was the case of a widow, holding but a few shares, and the others had been prevented from making punctual payment to some accidental circumstances, entitling them to a relaxation of the rule. The object of this provision in the charter, was clearly to compel the payment of the instalments, and, like all other human laws, designed to impose the penalty upon a wilful or corrupt negligence; so far as this was its object, it was executed strictly, and in good faith: but it could never have been intended to punish a failure upon the part of the unwary, or which was occasioned by accidents, over which the ordinary human exertion had no control; for such instances, in the very nature of the case, a discretion must have been vested in the great body of the stockholders. The provision was introduced, also, for the benefit of the punctual stockholders, and if they think proper to waive its benefit, and relax the rigor of the words in the case in which there existed no design to evade its provision, it cannot be a ground of complaint with any one else. They have waived it by their own act, and they do not desire any proceeding on this account. If, indeed, in point of strict law, this act could be considered as a violation of the provision, it could scarcely be deemed of sufficient magnitude to justify the widespread ruin which would ensue a forfeiture of the whole incorporation. The interest having been charged upon the shares until the payment of the instalments, the difference would be of little or no importance. It fully evinces that there could have been no evil design to violate the charter; and surely gentlemen will not contend that it in any degree embarrassed the operations of the bank in the attainment of the great and fundamental ends of the institution.

The fourth act of violation is said to consist in "the judges of the first and second elections allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for others, in whose names the shares then stood."

Mr. McL. said he concurred with the unanimous sentiment of the committee in disapproving this act. It could not be disguised, that its effect was to enable the large speculator in stock to control the influence in the management and direction of the bank, to the exclusion of the small and *bona fide* stockholder. Yet he could not imagine that it would be deemed, under all the circumstances, a ground of forfeiture. He also begged leave here to remark, that the custom of subscribing for stock in the name of another, and voting as the attorney for that other, had been practised at all times and at all places, in this country, since the first organization of similar institutions, and that what had been universal custom and immemorial usage might almost be



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taken to be the common law of the case. It was a right, also, in which every subscriber might have participated. It does not appear very satisfactorily, from the proof, whether the practice was generally known or adopted, though it is certain that it was adopted by many of the large stockholders; but whether it was certainly known to others, or to what number, or to all the judges, or whether they were in possession of sufficient proof of the fact, does not appear. Mr. McLANE asked, if, under these circumstances, it was clear that the persons in whose name the stock was so held had not the legal right to vote, or that the judges could have rejected the votes, or compelled a consolidation? He believed not. By the charter, the number of votes to which the stockholders shall be entitled, shall be according to the number of shares which he, she, or they, respectively, shall "hold:" the act of holding is adopted as the evidence of ownership, or, at least, as giving the right to vote. The person in whose name the stock stands is the holder; with him are all the legal rights and all the responsibilities. No other than the holder could vote upon the shares, and neither the commissioners nor the corporation possessed the power of compelling the transfer of the shares. Even if they had suspected the contrivance, they had no means of defeating it; they were bound to receive the best evidence, and the books of the commissioners were conclusive of the fact of holding. It could not, therefore, have been the misconduct of the judges of the election, since they were unauthorized to act otherwise, and since it would have been impracticable for them to detect the collusion which was supposed to have been practised between the "holder" and the attorney. For this reason, it therefore follows, that the manner of voting complained of was not a corporate act; it was not an abuse by the corporation, but the mere misbehaviour of a few of the individual stockholders, for their own private purposes—misbehaviour, either unknown to the great body of the stockholders, or over which they had no control. It surely will not be contended, that the misconduct of one or more of the stockholders, unauthorized and unofficial, is to destroy the rights of all the others, who are innocent men, and alone injured by the misbehaviour. If it were a violation of the charter, it was a violation by those individuals by whom it was practised; it might be proper to punish them, but it would be worse than injustice to involve others in a common fate! Perhaps, too, if the votes thus given were necessary to the election of the successful candidates, their election might have been declared void; but this would have been the extent of the operation upon the being of the incorporation. Mr. McL. also contended, that this provision in the charter was introduced for the benefit of the individual stockholders, and principally for the small stockholders: these were chiefly, if not solely, interested in its faithful performance; and we have not heard that they would desire a remedy, if it could be so called, which would annihilate at a blow the whole of their interests. The Government

have no interest in the election; their stock is represented by their own directors, appointed by their own authority, without the consent or knowledge of the other stockholders; and it is worthy of constant remembrance, in considering this subject, that those by whom this particular violation was principally practised, and to whom the most of the evils and abuses which grow out of it have been attributed, were the directors appointed by the Government, and, with the power of removal in their hands, retained by the Government, from time to time, until the recent exposition in the report of the committee.

In short, then, Mr. Chairman, said Mr. McL., all the acts complained of as violations of the charter consist, at most, in either an unwise or improper exercise of a legal right, or in the acts or misconduct of individuals, for which the incorporation cannot be officially responsible: they have in no degree defeated the great ends of the institution, or impaired its capacity to perform and discharge all its principal functions. It is yet in full life and vigor; shaken a little, perhaps, by our treatment to it, by our jealousies and suspicions, and reproaches, but, containing a sound constitution and abundant means of usefulness, would be capable, with a few wholesome corrections, of answering all our reasonable expectations. Under such circumstances, it would be difficult to find a motive sufficient to justify its unnatural and premature dissolution.

Mr. McL. said that he had intended, when he rose, to have entered into a consideration of the different acts of abuse and misconduct to which the report of the committee had alluded, though not amounting to a violation of the charter; but he felt, if he did so, he should exhaust himself and the Committee before he could submit all the remarks which the course he had prescribed to himself rendered necessary. Upon this part of the subject, he would, therefore, briefly remark, that, besides the improper speculations in stock, of which he had already spoken, the abuses which had fallen under the animadversion of the report might be comprehended under six general heads: 1. The conduct of the Bank of the United States towards the State institutions. 2. The practice of selling drafts on its offices. 3. Discounting on a pledge of stock. 4. The arrangement for paying the dividends in Europe. 5. The improper rejection of business paper; and, 6. Allowing discounts to be made by the president and cashier. As to the second and fourth of these acts, which had been the most condemned, Mr. McL. said no doubt could be entertained that the bank had the right to do both; and he did not think we should interfere with its exercise, unless some manifest and serious injury was likely to result to the public; even then we could do little more than withdraw the public deposits. He had yet seen no such evil flowing from these measures. The selling drafts upon its offices was a mere exchange operation, of great public convenience and accommodation, contributing essential facilities to the commercial enterprise of the country and the financial concerns of the

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nation. There had been no instance, within his knowledge, in which it had been exercised oppressively or improperly; in the nature of things, it could not be, since it was optional with the individual to make his own bargain. The arrangement for paying the dividends in Europe could never be used to the prejudice of the stockholder or the public. He saw no impropriety in giving to the stock its highest credit in the European market; and it was a matter involving so many considerations, connected with all our commercial and political relations abroad, that he felt entirely satisfied to rest it with the discretion of gentlemen who were daily and intimately conversant with all their details. He was sure that the arrangement would be continued no longer than was consistent with the interest and profit of the institution. Of the third head, he not only believed the bank had the perfect right to discount on a pledge of stock, but he was inclined to think it was the safest and best mode of doing business, if it were not practised to the injury of the commercial activity and general enterprise of the country. Of this, he believed the directors, from their local knowledge, would always have the best means of judging; and the investigation he had made afforded him no reason to believe that either of these effects had yet been produced. He would not refrain, however, from condemning the practice of discounting upon a pledge of stock above its par value, and of dispensing with the personal security, under the power of substitution. Equally reprehensible, in his opinion, was the practice of permitting the president and cashier to make loans without the approbation of the directors, in each particular case. He believed it was calculated to lead to serious abuses; and he trusted to the good sense of the stockholders to correct it. As it regarded the conduct of the Bank of the United States towards State institutions, he could not imagine that it would afford any ground of complaint. It had undoubtedly been mild, generous, and conciliatory; and it was with surprise he had heard his honorable friend from Virginia (Mr. TYLER) maintain that it had not facilitated their resumption of specie payments. Sir, this was among the first and great benefits which this institution diffused throughout the community, and the documents show that its desire to accomplish this end led to the adoption of some of those very acts upon which censure has since fallen, and created difficulties with which it would otherwise not have struggled. It accomplished this desirable end in your cities, by large and liberal loans to the State banks, and by giving currency to their paper, thus shielding the individual debtors from an undue and fatal pressure, and enabling the banks, without their aid, to meet all their engagements. It enabled all the country banks, and especially those in the interior and to the westward, to do so, by receiving from the Government an immense amount of the country bank notes, which could not have been redeemed as early as the public necessities required, and gave to the banks a liberal time for their re-

demption; thus throwing into circulation a large amount of good paper, supplying the wants of the Treasury, and relieving the State banks from the pressure from which they had everything to apprehend.

But, sir, said Mr. McL., it is inconsistent with my present design to pursue this part of the subject further. I have already said, that I do not stand here as the indiscriminate defender of the bank. The inquiry which I deem material to pursue is, whether the abuses which have been practised and really do exist, will not admit of a perfect correction without the destruction of the *being* of the incorporation? If they will, I will never consent to be among its destroyers. It would be unbecoming in us to wield our power vindictively, when a chastening arm would answer every good purpose. That all these acts of misconduct will admit of correction by mild means, and will, in fact, be corrected without much interference on our part, is to me perfectly clear. The most serious acts of abuse, those in which it is alleged are involved the violations of charter, are already corrected—they exist no longer. There is no apprehension that the bank will ever repeat the purchase of any part of the public debt; it has suffered too sorely in the past instance, to yield so ready an acquiescence in the instructions of the Treasury in future. The loans on account of the instalments have principally been paid, and cannot, in the nature of things, ever recur. And the same remark may be made in relation to the payment of the dividends to the delinquent stockholders. As it regards the division of the votes, the documents furnished by the committee show that all the stock has long since been consolidated; but, if it should be otherwise, the bill reported by the committee will compel it to be done, and effectually prevent a recurrence of the evil. Those scenes of speculation also, of which so much has been said, must very soon cease, if they have not ceased already. They are more or less incident to the inception of all such institutions, and cannot be prevented. Men will subscribe for and purchase stock on speculation; the only remedy is to be found in the regular march of the institution. Under a sound management and a prudent disposition of its means, the large speculator will soon lose his power of controlling the market; the affairs of the institution will acquire stability; its stock will reach a regular sound value, liable only to the inevitable fluctuations of ordinary property, and finally become vested in the hands of the solid capitalist. For the correction of all these abuses, we also have a pledge in the interest of the stockholders. A safer one could not be provided. They are well acquainted with their interests, and, if they perceive a course of conduct calculated to prejudice them, they will not fail to check it, and promptly apply the remedy. If this has not been the case heretofore, it is because the great body of stockholders, in common with us, were ignorant of the nature or existence of the abuses. Besides, if this were a cause of complaint, the Government would come in

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for a large share. Their directors were the principal actors in the drama, and they possessed the power of removal at any time. We cannot doubt that the stockholders, with a due regard to their private interests, will confide their management to men no longer than they prove themselves to be worthy of the trust. There is also, in the very nature of the exposure which the report has made, an ample remedy for all the evils; the scrutinizing power of Congress has already been felt; that it will be exercised, is no longer a matter of speculation; and these facts, together with the nature of the report arising out of the recent investigation, will necessarily inculcate and preserve a due circumspection of conduct in future. Of all this, we need no better proof than is to be found in the effects already produced by the late inquiry. We have already seen the unfortunate man who presided over this institution, surrendering a lucrative post the moment it was intimated that he had abused the trust confided to him. I call this gentleman unfortunate, because I believe his misfortunes are attributable to the influence of others, much more than to any immoral propensity in his own breast. And we have further seen his example followed by another, against whom the animadversions of the report have been principally directed. The same spirit, in obedience to which these sacrifices have been made, will not falter in its course until an entire reform has been effected.

But, Mr. McL. said, there were other reasons why these abuses would not continue. They were not the result of any general unsoundness in the management of the institution. My honorable colleagues, said Mr. McL., will, I am sure, justify me in saying, that there were men in the direction, the example of whose general conduct individually and officially any one might proudly imitate. Men of highminded honorable feelings and sound intelligence, capable of conducting the institution with credit to themselves and benefit to the public, and to whom no sinister motive or unfair conduct could be imputed—who had, on all occasions, been the advocates of an enlightened, disinterested policy, and had resigned considerable emolument, which they might honorably have made, rather than incur the suspicion of participating in the smallest degree in those stock speculations which have been so much reprobated. In the number of these men, besides those named in the report, Mr. McL. said it afforded him great pleasure to enumerate Mr. T. Willing and Mr. Fisher, of Philadelphia, and his honorable friend in this House, from Pennsylvania, (Mr. SERGEANT,) as conspicuous for the qualifications he had mentioned. On the whole, he concluded that there was every reason to calculate upon a safe and discreet management of the affairs of the bank in future, superintended, as it would be, by the inquisitorial power of Congress, and the control of the Treasury over the public deposits.

In regard to the question of the expediency of abrogating their charter, Mr. McL. said, if his construction of the acts of violation were correct,

it would be very unnecessary to enter into a consideration of it, since, if there were no forfeiture, the charter would be beyond our power. Nor would he go so much into detail upon this part of the subject, because of the length of time he had already occupied, and the danger of encroaching upon the views taken by the gentleman from South Carolina. Without detaining the Committee, therefore, said Mr. McL., in particularly considering the importance of this institution, in providing a circulating medium, in averting the evils of a depreciated paper currency, in equalizing the exchange in the different parts of this extensive country in the eminent degree it has done, in facilitating the financial operations of the Government, in providing a ready medium for their revenue, and safety for their deposits, and in inspiring life and activity into the commercial enterprise of the community, I will remark merely, that all the reasons that so powerfully recommended the creation of the bank yet exist, in all their vigor, to recommend its preservation. Among these, the most important, in my view, is the necessity of a national currency, beyond the reach of local interests and commercial fluctuations; and the inexpediency of relying upon State banks, for the national wants and the operations of our public finances. Not merely as it respects the supplying of the Government and its debtors with a sound unvarying medium, considerations suggested by the gentleman from South Carolina, but as it regards the stability of the Government and the efficiency of all its measures in war and in peace. I ask, sir, if it is wise to place the pecuniary resources of the National Government at the control of State banks? If we consider for a moment the vast extent of our continent, from all quarters whereof our revenue is to be drawn, and over all parts of which the supreme arm of the General Government is to be extended, in the regulation of commerce and providing for the common defence and general welfare; if we consider also the augmenting concerns which are daily multiplying with the growth of this mighty empire, and the almost absolute necessity of banking facilities for the effectual exercise of all the powers intrusted to the Federal Government, the folly of placing our reliance on State institutions will be manifest. Their charters might expire, and their existence cease at the very moment their aid would be the most necessary. I invite gentlemen to reflect also upon their power and influence over the moneyed affairs of the community. It is in their power to render worthless any medium which the Government may be compelled to create, excepting the metals, of which we all know the scarcity is greatest in times of the most pressing necessity. Such a power, in the hands of that diversity of interests, which might prevail in the different States of this Union, might paralyze the national arm and have a fatal influence upon our prosperity. I ask gentlemen to recur to the experience of the late war. Then all these calamities were seriously felt. We must all remember the embarrassments of the Government at that

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time. Then the State banks, in most instances, refused their aid, and the very necessities of the Government forfeited individual confidence.—Treasury notes were resorted to, and every effort was made to give them currency—the faith of the nation was pledged for their redemption, and they were made receivable for public debts, but the State banks refused to receive them in deposits; and by this single act depressed them to ten, and in some instances to fifteen per cent. below par. The consequence was unavoidable; the national arm was weakened, its resources crippled, and its credit annihilated. To prevent a recurrence of similar calamities, the present bank was incorporated, and I admonish gentlemen to beware how they leave us exposed once more to evils of the same character.

But, Mr. Chairman, said Mr. McL., there are additional reasons now, which recommend the protection of the bank, that did not exist at the time it was incorporated. By giving this institution a being and existence, you have created innumerable rights which did not before exist. There are the debtors and creditors of the bank who have connected their interests with it on the faith of the nation, and would be ruined by its sudden destruction. There are, also, the innocent stockholders, here and abroad, who have invested their fortunes in the institution upon the same national faith, and upon the reasonable presumption, that no harsher measures would be adopted towards it than what experience had justified in regard to others. Of the foreign stockholder, this national faith is the chief reliance, for, in effect, not being allowed to vote by proxy, his interest can scarcely be said to be represented. It is the interest of the Government to preserve its own and the credit of the stock in Europe, and this cannot be done without giving it security and stability in their estimation. If it be once discerned that the existence of such an institution is dependent upon legislative caprice or local interests your stocks will soon be looked upon with distrust and jealousy. If anything could add strength to these considerations, it is, that the act of violation, upon which a forfeiture is mainly supported, has already received an amnesty at your hands. Two years ago it was officially announced to you—an investigation of the matter was made—the subject was brought before Congress, and it was finally resolved to be inexpedient to take any further notice of it. By this vote, others than those who at that time held stock were encouraged to become purchasers. It was an annunciation to the world, that Congress would sustain the bank, notwithstanding this act of violation; hundreds of our citizens, upon this principle, purchased the stock at extravagant prices, and, after all this, to recall this act from its grave and seize upon it for the purpose of immolating the institution, would be an act of which, for the glory of the nation, I trust it will never be guilty.

But the honorable gentleman from Virginia (Mr. TYLER) had said, and he thought with more beauty than force, that this act was committed

when the child was in its infancy, and if we then overlooked it, as the folly of the infant, it is the more necessary now to punish the aberrations of its manhood. Mr. McL. said, it was a new system of discipline to visit on the head of the man the follies of the boy, and was unreasonable as well in the artificial as in the natural person. Sir, said Mr. McL., I have no sort of objection that you shall consider this institution as your child; in fact it is so, and, if properly cherished, one that will not dishonor its parent. I only desire that you shall exercise towards him a parental solicitude and authority; if he prove refractory, admonish him; if it be necessary to prevent him from doing an injury to you and himself, administer wholesome correction; but do not act the part of an unnatural parent, and not only torture, but sacrifice him for faults which you have once overlooked, or for future acts of misconduct, which may in some degree be ascribed to your own improper indulgence.

Mr. McL. said, that he had already consumed so much time that he would conclude with an apology to the Committee for trespassing so long upon their patience, and with thanking them for their attention.

Mr. SERGEANT addressed the Chair, as follows:

Mr. Chairman, I beg the permission of the Committee, to offer to them some observations upon the several propositions that are now submitted for their consideration and decision.

The inquiry in which we are engaged is attended with some intrinsic difficulties, of no inconsiderable magnitude, and calculated very much to embarrass our deliberations, as they must have been to embarrass the deliberations of the select committee, to whom the examination of this subject was more particularly confided. In the first place, it is retrospective, and I admit it is necessarily so. We are called upon to take a review of the management and conduct of the bank during all the period of its existence, and we expect to find that the best has been done in every instance, which, with the full light derived from a knowledge of all that has since happened, appears to us to have been possible. In this manner it is, that battles are fought over again in discussion; and, whether they have been lost, or whether they have been won, it seldom happens that those who thus sit in judgment upon them cannot detect some errors that have been committed—point out advantages that have been lost, and opportunities that have been suffered to pass unimproved. The just rule of judgment in such cases, if, indeed, its application were practicable, would be to place ourselves in the situation of those upon whose conduct we are called to pass, in the midst of the difficulties by which they were surrounded, and with no better view of the future than what their own judgment could afford them.

It is in the nature, too, of this inquiry, conducted as it has been, to group and connect together all the exceptionable acts that have been done by those to whom the management of the institution has been confided; while, to use a bank phrase,

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it gives no credit for those things which were right, and even entitled to some commendation. I wish, sir, to be distinctly understood: I am not using the language either of complaint or censure. I only say, that, as the inquiry, from its nature, was in a great measure confined to exceptionable acts, it must necessarily present them in a body, without relief from their association with the mass of good deeds with which, in their order, they stood connected. This is a sort of judgment which none of us would be willing to submit to, or could expect to endure. Let the life of any man, the most honest and honorable, be exposed to the same kind of examination. Begin with his infancy, (to use the language of the gentleman from Virginia,) and follow him through the different periods of his progress, put together, as constituting his history, whatever, from the severest scrutiny, you can find, that has deserved reproach or censure. What a dark exhibition would it be!

Besides, sir, what is at last the test we apply? We set opinion against opinion, upon a subject of a very comprehensive and of a very complicated nature, involving much detail, and every detail involving more or less of speculative inquiry.

There are extrinsic difficulties, of no less magnitude. It cannot be denied that there has been a vast deal of prejudice in the public mind, against this institution, which, whatever may be our resolutions to the contrary, affects us insensibly, and, when we neither know nor suspect it. The sources of this prejudice are sufficiently apparent.

The State institutions have many of them been induced to regard the National Bank as an enemy, and the spirit of hostility which they have felt has had a most powerful influence throughout the community, with which they are so extensively and intimately connected. It is in the ordinary course, too, of the operations of the bank, to give frequent offence to individuals. Every man who is refused a discount thinks himself aggrieved, and indulges a feeling of resentment, not at all mitigated by any consideration of the circumstances that may have rendered it prudent, or even necessary, to reject his application. The same remark might be made, with equal truth, of every sort of accommodation which the bank is supposed to have the capacity to afford, but which events, beyond its power to control, do frequently oblige it to withhold. When the directors, not very long ago, exercising a right that no one denies to have belonged to them, and exercising it under the compulsion of circumstances so imperious, that every one now confesses they could not have refrained without a plain violation of their duty; when, I say, they determined that branch notes should thenceforth be paid only where, upon their face, they were made payable, there was an almost universal clamor. Sir, there is still another source of prejudice. The bank has had the day of its beginning. It is now in the day of its humiliation. But, it has had the day of its prosperity, too—when success, even beyond the expectations of its most sanguine friends, seemed to crown its operations. In that day—I

appeal to many who are within hearing what I state, and are able to confirm its truth, as a mere matter of fact; I appeal to every one acquainted with our nature, to say whether it is not what would generally happen—those who had themselves refused to subscribe, and discouraged the subscription of others; those who had thus neglected to avail themselves of what then appeared to have been the golden opportunity, suffered all the mortification of seeing their predictions continually falsified, and could scarcely avoid the influence of a certain deeply implanted kindred feeling, which is never more sharply exerted than when we see others profit by what we have permitted to escape from ourselves. They did not avoid it.

There are, besides, many who think that a National Bank, however organized, is impolitic and unwise; and there are some who think it not within the Constitutional power of Congress to establish a bank.

Under the combined operation of such a mass of causes, the committee had no doubt a difficult task to perform, even if they had taken much more time for its performance than seems to have been allotted. If they have fallen into errors, it is not surprising; but it ought to secure from them some indulgence for errors in others. It will at least entitle us to differ from them in opinion, and freely and fully to canvass the grounds of the report.

Before, however, I proceed to examine the report, I beg leave to call the attention of the Committee to the authority under which we have been acting, as it is to be found in the law for incorporating the subscribers to the bank. The provisions of the charter, designed to secure the faithful administration of the bank, contain in them a distribution of powers, just in itself, and perfectly well adapted to attain the object. The power given to this House, (sec. 23,) is confined to a single point of inquiry, whether or not the charter has been violated, in order that we may be enabled to judge whether or not it is expedient to institute legal proceedings for its repeal. The examination we are authorized to make, is subordinate to this object; and, to my mind, it is quite clear that we have no right to pursue it further. The care of the remaining interests of the Government in the institution is confided to the Executive. The President appoints the Government directors. The Secretary of the Treasury has an almost unlimited power of examining the proceedings of the bank. Weekly statements are to be made to him, (sec. 11, art. 15,) and he has the right to inspect everything except the accounts of individuals. The purpose is manifest: it is, in the first place, to enable him to judge of the conduct of the directors appointed by the Government. It is, in the next place, to enable him to decide whether the public interest in the bank, consisting of the stock belonging to the Government, and the deposits of public money, are faithfully guarded. The necessary sanction for enforcing the exercise of this power, is also confided to the Executive. The President has

authority to appoint, and to him is given the authority to remove, the directors on the part of the Government, (sec. 8.) A much more important sanction is the power given to the Secretary of the Treasury, by section sixteen, to withdraw the public deposits, laying before Congress his reasons for so doing. The interests of the stockholders, which form the remaining branch of this great national concern, were intended to be left to the care of the stockholders themselves, as their best and safest guardians—their natural guardians; and it is the right of the stockholders to delegate the authority to such directors as they may think proper. This right is enforced and secured by the power of election. Their servants are accountable to them, precisely as we are to our constituents. If, upon a review of our conduct here, they are not satisfied with our efforts to serve them, they elect us no more, but devolve the honorable trust of representing them in the councils of the nation, upon others, whom they think more worthy of their confidence.

These provisions, thus arranged and distributed, are of sufficient efficacy for all the purposes that were designed to be accomplished. Thus arranged and distributed, they are in harmony with each other; and, while every interest is guarded by its appropriate sanction, they all co-operate to secure the common result—a faithful administration of the bank.

If this be a correct exposition of the terms of the charter, our inquiry ought, properly, only to be, what alone it can be effectually, whether the charter has been violated. Any other course will inevitably lead us into difficulty. If we undertake to examine the general administration of the affairs of the bank, or to investigate the conduct of particular directors, we are involved at once in the danger of an interference with the Executive. To that department it belongs to decide whether the public duty has been performed. The officer at the head of the Treasury must always be well qualified to decide. None but a citizen of distinguished talents will be placed in that high and responsible station; and, when there, his official occupations, the habitual tenor of his studies and reflections—his daily acquaintance with the management of the bank, in all its relations to the fiscal concerns of the nation, as well as his repeated inspection of the statements exhibited, will enable him, better than any other person, to judge how far its concerns are faithfully administered towards the public. Are we not in danger, too, of involving ourselves in collision with the Judiciary? We are here entertaining a mixed inquiry, partly of expediency and partly of charter right, mingled in such a way that, in deciding whether the charter has been violated, we make no distinction between errors, or, if you please, misconduct, in the management, and such offences of the corporation as would work a forfeiture of the charter. Indeed, the distinction, obvious as it is, seems scarcely to have been noticed, either in the report of the committee, or in the debate that has taken place. The great stress of objection has rested, not so much upon

the specific violations of the charter, alleged to have been committed, as upon the more comprehensive ground of mismanagement in the exercise of indisputable charter-rights. Suppose, then, that, under the impression of considerations like these, you send this corporation to the Judiciary, there to receive its trial; you may send it there with all the weight of prejudice arising from a vote of Congress; you may, and you will, in some degree, pre-occupy the public mind, always deeply affected by the judgments of their representatives; and you may, and probably will, more or less impair the chance of a fair and impartial trial. But, when this trial shall come; when the corporation shall appear at the bar of a judicial tribunal, there will be an end to every question except the naked question of forfeiture; there will be an end to every consideration that is foreign to that precise inquiry, and then the consequence will be, that, following a different rule of judgment, the judicial tribunal will probably arrive at a different result. You are thus in direct collision. Different departments of the Government are placed in a state of hostility towards each other, the public mind is irritated, and that harmony which we all know to be of so much importance in the structure of our Government, is uselessly endangered.

Sir, we interfere, to a most alarming extent, with the just power of the stockholders. They are the exclusive judges of whom they will have for directors. They are the best judges. That sure instinct, "that keen, steady, and, as it were, magnetic sense of their own interest," which every man feels and obeys, in his own concerns, is the best security to be relied upon for a careful and prudent selection. It is the right of the stockholders, by the charter, and it is almost the only right they have reserved. To the Government they have conceded much; for themselves they have retained only the power in question, to be exercised under such modifications and restrictions as Congress thought fit to prescribe. Upon the faith of an undisturbed and free enjoyment of this republican right of choosing their own representatives, they have embarked their property in the institution; and would you, can you, without doing unjust violence to the compact you have made with them, impair or disturb the exercise of the power that belongs to them of judging for themselves whom they will have for directors? Sir, I will put to you what may, at this moment, perhaps, be deemed the strongest case. Suppose they choose to elect a broker, or a speculator—can you say they shall not? Have you the power to tell them what shall be the occupation, what the character of the men whom they are to employ? You may think their selection unwise or imprudent, but they will answer you that they know their own interests, and are able to take care of them. That, in the very instances you object to, though the individuals may be obnoxious to the imputation of being speculators or brokers, and you, on that general ground, may think them exceptionable, yet they, the stockholders, have the means of knowing their

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individual characters, from various sources inaccessible to you, and feel the fullest confidence in their intelligence and fidelity to the institution. I do not now touch the question of elections; it belongs to a different part of the inquiry.

I will make but one observation more upon this branch of the subject. It is essential to the interests of the stockholders, and it is no more than just to the directors that the latter should be free while they are performing the duties that are assigned to them; that they should be free, not only from all restraints except those to which the law subjects them, but that they should be free from the apprehension of an unlimited and undefined accountability. Many things are exclusively confided to them, and must be so confided. Their own judgment, fairly applied, their own discretion, is what must guide them. Who will undertake an office like this, if he is to act under the terror of an investigation that may put the worst construction upon well meant efforts; that may even expose his best acts to censure, and which, governed by no known rule in its course, and limited by no measure in its result, is calculated to confound all distinction between the officer and the individual, between error and misconduct, and, by a hasty sentence, to inflict the keenest punishment that an honorable man can endure? And this, too, upon what a member of the select committee has termed, and properly termed, an *ex parte* inquiry, where the accused has not an opportunity either of explanation or defence, and where the first notice he receives is in the heavy condemnation going forth against him, under the respected authority of a committee of this honorable House.

Sir, other objections will readily present themselves to such an inquiry. We have no rule or principle to direct us, no more than one man would have in judging whether another managed his estate to the greatest advantage. If the inquiry were simply whether the charter had been violated, we should have a comparatively easy duty. There might, and from what has occurred, I think it probable there would, be difference of opinion. Still, we should differ only about the application of established rules, and should be relieved from the most unpleasant part of the present inquiry.

But I know well that every public body, however constituted, listens with reluctance and with some displeasure to any argument or suggestion that tends to bring in question its own power. I do not mean, for it is no longer material, to question the power of this House in its immediate application to the business in hand. It is too late. Still less do I mean to avoid the full examination of all the grounds of complaint and censure that are displayed in the report of the committee. But I have thought it right to submit, with candor and freedom, such observations as occurred to me, upon the general nature of the authority possessed by this House, chiefly with a view to expose the mischiefs that might result from transcending it. Every member will allow to them weight as he thinks they deserve, and no more.

I will now proceed to consider the subject, under the two aspects in which it is presented by the committee.

I. As regards the general management of the institution.

II. As regards the alleged violations of the charter.

1. We all of us remember distinctly the state of things that existed when the law passed for incorporating the subscribers to the Bank of the United States. We had a currency, or rather, to speak more accurately, we had currencies, local in their circulation, and variously depreciated in different parts of the Union; in some quarters of the country as much as twenty per cent. We had no general currency—none that would circulate freely everywhere. The evil effects were already very manifest, and threatened to increase. To say nothing of the obstructions and difficulties that were thrown in the way of domestic commerce and exchange, nor of the continual irritation that was occasioned by the changes in value that took place at every step, taken by what was called money in its progress, either with travellers or traders, through different parts of the Union—to say nothing of the effect upon the credit of the country—but passing these by as evils that were familiarly known and felt, there still remained one great source of grievance and public mischief which it peculiarly became the duty of the Government of the United States to endeavor to remove. The revenue of the Government was received in the paper of the State banks—its debts were paid in the same paper. What was the consequence? Its funds were not transferable from place to place, according to its wants, but confined in their use to the local limits which bounded the circulation of the paper in which they happened to be paid. There was nothing like uniformity in the payments made to the Government. A merchant in Boston, owing precisely the same nominal amount, paid twenty per cent. more than a merchant in Baltimore. There was the same inequality in the disbursement as in the receipt of the revenue. The public creditor, who had the good fortune to receive his money at Boston, received twenty per cent. more than the creditor who was obliged to receive it at Baltimore or Washington. In addition to all the inevitable evils that belong to such a state of things, (sufficient surely, if allowed to continue, to have endangered the well-being of the Union,) there was one, perhaps, also inseparably incident, that began to manifest itself. I allude, sir, to the power it gave to those who were intrusted with the collection and disbursement of the public moneys. They had the opportunity of benefiting themselves, and of favoring their friends, at the expense of the Treasury and at the expense of the public creditor. The very possibility of such an abuse was a sufficient ground of suspicion. At the period we are speaking of, an officer of the Government found it necessary to ask of this House an investigation of his conduct, in order that he might vindicate himself from certain injurious rumors circulated against him, upon no

better foundation than that I have mentioned. The investigation took place; the result was satisfactory; and I refer to it only to bring into view one of the many kinds of mischief that grew out of the disordered condition of the currency. Whether the State institutions would of themselves have corrected the evil I do not think it necessary to inquire. The Government of the United States had no direct controlling power over them; and if they had so far sacrificed their own interests, in deference to the public good, as to restrict their business, and, of course, their profits, it must have been from a voluntary submission to motives of a higher character than ordinarily govern the conduct of individuals or bodies. But this I will say, that, if they were to be brought back by anything deserving the name of coercion, it could not have been by a gentler coercion than that which has been employed by the Bank of the United States. Sir, when this subject was before Congress, at the time of passing the act of incorporation, it was thought by many that the destruction of the State institutions would rapidly follow the establishment of a National Bank. I confess myself to have been one of those who were influenced by this apprehension. I thought the new institution would press heavily upon the old, and through them would press severely upon the community. I did not then see how the great public views were to be realized, without departing from that course of lenity towards the State banks which the interests of the community seemed most imperiously to require.

The objects to be attained were thus immense: the interests to be conciliated were of the highest importance, and at the same time apparently irreconcilable. The task was a fearful one, and the manner in which it has been executed, when it comes to be fairly developed, will seem little short of marvellous. If proof were necessary of what was generally thought at the time, of the burden the bank had assumed, and of its capacity to bear that burden, we might refer to the history of the subscription at the opening of the books. Great doubts were entertained whether it would be filled; in fact it was not filled during the twenty days prescribed by the law. There remained unsubscribed above three millions of dollars, nearly the whole of which was taken by one individual at Philadelphia.

I will now proceed to show what the bank has done; considering, first in order, the *National objects* it was designed to accomplish.

Among these—the most interesting, and in every point of view the most important—that which chiefly induced the passage of the law, was the introduction of an uniform currency, in sufficient quantity to answer the purposes of circulation, so far, at least, as to enable the Government to collect and disburse its revenue. I mean a currency as nearly uniform as the nature of things did admit. It cannot be supposed to be within the power of any government, or of any bank, to make a dollar at New Orleans worth as much to a merchant in Boston, as a dollar in Boston; un-

less, indeed, he has employment for his dollar at New Orleans, in which case it may be worth more or less to him, according to circumstances. We might as well pretend to make a bag of cotton worth as much upon the plantation where it is produced, as in the warehouse at New York, or in the manufactory at Philadelphia. But this part of the subject has already been fully and ably handled by the gentleman from South Carolina, (Mr. LOWNDES,) who has shown conclusively that the currency afforded by the Bank of the United States approaches nearer to uniformity throughout the whole extent of this great country, than has been attained by nations possessing at least equal advantages, and operating within much narrower limits.

Neither was it understood or expected that the bank would be able to place, and to keep in circulation, everywhere, as much as in each particular quarter of the Union might be wished or wanted. This is impracticable in regard to States and districts of country, as it is with respect to individuals. A parent may give to a child a fortune adequate to his support, and suited to his circumstances, but he cannot prevent him from wasting or parting with it, unless he imposes restrictions upon its use. The very phrase, a uniform currency, implies a currency that will pass everywhere—that will flow everywhere—without any obstruction but what arises from the expense of conveyance; of equal value everywhere, and, for that very reason, in unequal quantities. It is the precise distinction between the paper of the Bank of the United States, and the paper of the State banks; which, having no currency beyond certain local limits, remains within them in greater abundance than is necessary. It is the same distinction which exists between either kind of paper, when not redeemable, and gold and silver. We may illustrate it more clearly by an instance: A merchant in the State of Ohio makes a sale in Ohio, in order that he may be able to buy in Baltimore, or he sells in Baltimore that he may buy in New York. He wishes, in either case, to receive what will pay for his purchase in Baltimore or New York, and he carries from the place of sale to the place of purchase the amount that he has received. It has happened to most of us to have some experience of the nature of this distinction. Formerly, there was great complaint by travellers in some parts of New England, that the money, or rather the paper, they received in one town would not pass in another. There, I believe, the grievance has ceased. But in other parts of the country we experience it every day, being obliged continually to inquire whether the paper put into our hands in one place will be taken in payment in another, and feeling instantly the inconvenience, if, by mistake, we carry it beyond the limited bounds of its circulation.

Where the currency has the quality I have mentioned, that is, of uniform value, or nearly uniform, the quantity that will remain at any given place depends upon the course of trade; the quality depends upon its solidity; it is only



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to be obtained by buying or borrowing. The memorial to the Ohio Legislature, or the report of a committee of that body. (I do not know which, for I was not in the House when it was quoted by the gentleman from South Carolina.) complains, in substance, that such a currency was furnished to them. That is the amount of the complaint, for they say they were tempted to employ it in purchasing from the cities to the eastward beyond what they ought to have purchased. A very singular complaint, indeed, which charges upon others the consequences of their own imprudence. The complaint should be, that they did not keep what was given to them, or at least a portion of it, and use it, as they might have done, in the payment of their dues to the Government. There is no doubt, however, that they have approached, if they have not reached, the true cause of their present embarrassments. This currency would not have wandered away, and left them destitute of the means of paying their debts, if their local circulation had not been overcharged with State bank paper, depreciated from its abundance—too easily obtained—supplying the purposes of local exchange, and failing, when it was wanted, for the more extensive exchange, to which the United States Bank paper, from its uniform value, was exactly adapted. The paper and credits afforded by the Bank of the United States were thus banished by the local paper; they were sent off to perform the distant service of buying in the cities at the eastward, and the people of Ohio kept nothing to pay their debts but the paper of the State banks. This was their own fault, imputable to themselves alone. Time, economy, and the industry of the State, employed in producing what will buy money, or, in other words, what may be exchanged with those parts of the Union where the money has gone, will bring all right.

One of the charges made by the committee against the management of the Bank of the United States, (and which this is the most fit place to notice,) is on account of the supposed excessiveness of its loans in those States and cities against which there was a balance of trade—those which, to simplify the idea, were debtors, particularly in Kentucky, Ohio, in Baltimore, and Philadelphia. The argument they employ to sustain this charge, namely, that injustice was done to the States and cities which had the balance in their favor, or were creditors, has already been amply and conclusively refuted. It has been shown, indeed it appears from the statement of the report itself, that these loans were in the highest degree beneficial to the creditor States and cities, the money obtained by the borrowers going directly thither, and enabling them to obtain specie from the branches, to be employed in the manner most advantageous to themselves, either by their banks or by individuals. "The effect of these draughts upon the Northern offices, was, to compel the constant remittance of specie there," &c. (Report, p. 4.) How, then, it can be said "that those places were made tributary

to Baltimore," I am altogether at a loss to understand.

But, considering the diffusion of a uniform currency throughout the United States, in sufficient quantities for public purposes, to have been an important public object, it will be easy to show that the imputed error is far from being censurable. To put in circulation such a uniform currency as has been described, in the manner most advantageous to the Union, it was necessary, when the bank was organized, to give a preference to those States against whom there existed an unfavorable balance. It would flow from them in payment of their debts, (retaining, if they were prudent, what was required for local purposes,) where it ought to go—that is, into the creditor States—and thus the creditor States be supplied. But what was thrown by the bank into the creditor States would never find its way to the debtor States, unless it were in the shape of loans by them, which was not to be expected. If an individual, having a sum of money to lend, was disposed to lend it to one of two persons, each of whom he was equally inclined to serve, and in both of whom he had confidence as to their ultimate ability to repay, if in that case he could lend it only to one, and it so happened that one of them was indebted to the other, would he be most likely to benefit both by lending it to the debtor, or by lending it to the creditor? The answer is obvious: if lent to the debtor, he would be enabled to apply it towards payment of his debt, retaining what might be necessary for more urgent wants, the creditor would receive his money, and both would derive some advantage; if lent to the creditor, none of it would find its way to the debtor. A different course would, perhaps, have been more for the interest of the institution, as it is always better to lend to the rich than to the poor—I mean better for the lender. But, if the object was to distribute a uniform currency throughout the United States, there was no error. That such a currency has been introduced, in sufficient quantities to answer all the purposes of the Government, cannot be controverted. It is undeniably proved by the fact, that the receipts and payments of the Treasury are ever made in a currency of uniform value. Neither can it be controverted that such a currency has been introduced into every quarter of the Union in sufficient quantity. If it has not remained in the places where it was introduced, that cannot be chargeable to the bank, for the bank had no power to prevent its migration or transfer. So far, therefore, as respects this great object—an uniform currency—the duty of the bank towards the public has been faithfully and fully performed.

Nearly connected with this subject, was the effort to make the branch notes payable everywhere, without regard to the place of payment indicated upon the face of them. It would undoubtedly have been a great public convenience, but it was more than the public had stipulated for, and more than the public had a right to expect. I think it easily demonstrable that the

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system could not be acted upon without great inconvenience and loss, and serious danger to the institution. It must be remembered, however, that the practice of the late Bank of the United States, whose notes were only payable or receivable at the place where they were made payable on their face, had been strongly (though I agree unreasonably) reprobated. It must be remembered, too, that many well-informed men believed in the practicability of the plan first adopted by the present bank; and probably nothing but experience (the most authoritative of all teachers) would have convinced them of their error. Under these circumstances the experiment was perhaps necessary to be made, in order that the public might be fully satisfied. It was certainly well meant and innocent. "The wants of the country and the interest of the bank (says the president in his letter of the 4th October, 1817, documents, page 28) require an extensive circulation of its paper; and it is the policy of the parent board to encourage the indiscriminate use of the notes of the bank, reserving for imperious circumstances and inevitable occasions the exercise of the legal right which it possesses of declining to receive or pay, except at the respective places where payment is promised on the face of the notes." The experiment has been made; experience has condemned the attempt. "Imperious circumstances" have compelled the bank to exercise the right it possesses; and I am glad to find that the report of the committee approves the change, and admits that it was made in the manner least exceptionable and inconvenient. There must be an end now to the complaint which has been made about this act of the bank.

I will now ask the attention of the Committee to another branch of the public management of the bank—that which regards its duties towards the Government. Of the manner in which these duties have been fulfilled, no one can be better qualified to judge than the Secretary of the Treasury; no one would more promptly feel the inconvenience of the smallest failure, as they are all intimately connected with the fiscal arrangements confided to his care. His testimony therefore ought to be of the greatest weight with the Committee, if indeed it be not quite conclusive. For distrust and suspicion must have acquired a most unreasonable and excessive influence in our deliberations, if they can incline us for a moment to question or doubt the statements of that high and distinguished officer. In a letter of the Secretary, during the last session of Congress, (the words of which I cannot quote, but to which every member may refer on the files of the House,) he expresses, according to my recollection, a general approbation of the conduct of the bank—as having exceeded his expectations. In his letter of the 4th December, 1818, the select committee of this House, (documents, page 95,) he states in detail how the specific duties of the bank towards the Government have been performed. I appeal to that letter to show that they have always been faithfully performed.

But the manner in which the bank has performed its duties towards the Government, the services it has rendered to the Government and nation, cannot be more plainly evinced than by a statement extracted from the documents furnished by the select committee. The bank commenced its operations about the 1st January, 1817, excepting a loan to the Government, of \$500,000, made in December, 1816. The public deposits, on the 31st January, 1817, amounted to \$1,147,772 97; in the following March they had risen to \$11,615,017 62; the 30th April they were \$11,345,796 75; and on the 29th July, \$24,746,641 26. This, sir, was when the bank had been in operation but six months. That this immense amount of \$24,746,641 26, was the saving of the revenue received during that time, no one will pretend. It was the accumulation of revenue previously collected, distributed throughout the United States, in credits of State banks, variously depreciated, and of which the Government could not be said to have the command because they were local, and of course applicable only where they happened to be, and where the public service did not require their expenditure. By this single operation, twenty-four millions were thus converted by the bank from depreciated, local currency, into specie, or, what was equivalent to specie, of universal circulation, and which the Government, through the agency of the bank, might apply, without expense, whenever, and wherever, its wants or its service required.

Another convention took place immediately after, highly advantageous to the Government, and, I must be allowed to add, extremely unfavorable to the bank. With \$13,398,438 02, part of the \$24,746,641 26, which had thus been appreciated, and rendered available to the Government, by the assumption of the bank, the Government, on the 31st July, 1817, redeemed, at par, \$13,398,438 02 of the public debt, belonging to the bank, which had been paid in by the subscribers. The report speaks, in terms of censure, of what it styles the "unfounded and unnecessary complaint, by the officers of the bank, against this very prudent measure;" meaning the redemption of the debt. That it was the right of the Government to redeem, I do not deny. That the officer at the head of the Treasury, whose first duty is to the Government, was justified in the measure by a proper regard to the interests of the Government, I shall not at all question. I will admit, too, that, as the Government clearly had the right, and chose to exercise it, complaint by the officers of the bank was altogether useless. But, that the operation was prejudicial to the interests of the bank, and might reasonably cause some dissatisfaction in those to whom the interests of the bank was confided, I deem most perfectly evident, and altogether consistent with the zeal for the real welfare of the institution, in which some other parts of the report seem to suppose them to have been wanting. By the original plan, a large proportion of the capital was to consist of public debt, bearing an interest, with liberty to sell in small successive portions. The

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value of such a possession, to a new institution, which the report supposes ought to have "proceeded gradually, growing with the growth, and strengthening with the strength of the nation," (page 7) it requires no great financial skill to estimate. It was a sure resource for obtaining the means of extending their business, when that should become expedient, and in the mean time was productive. It was redeemed at par, when the market price was considerably higher. But, passing by this loss on the redemption, the mere circumstance of withdrawing at once thirteen millions of stock, and throwing suddenly upon the bank thirteen millions of money, for which they were to find immediate employment, must have materially, and most injuriously, interfered with their arrangements. There can be no doubt that it led directly to some of those measures (the extension of loans on stock, for instance) which the report most strongly disapproves. But, be that as it may, none can question the advantage of it to the Government.

By the redemption of the public debt, and payments of the Government, the public deposits in October, 1817, were reduced to \$7,743,899 74. In October last (1818) the Government redeemed a moiety of the Louisiana debt, exceeding five millions of dollars, and this, too, was done through the agency of the bank.

Looking back to the period when the bank was established, considering the state of things at the moment when it came into existence, considering how short a time it had been in operation, and the difficulties it had to surmount, the effect is wonderful, and, to all unprejudiced minds, would seem to indicate a steady and faithful attention to all its public duties. Sir, that institution has been a servant, I had almost said a slave, to the public; a faithful servant, always forward, even at some expense to itself, and zealous to promote the public interests, in all their various and complicated relations. This is the spirit in which its affairs have been administered. It still continues to perform all its public duties, without affording just cause, in this respect, either of complaint or of reproach. I might add to this list of benefits, received by the Government and nation, the decided improvement that rapidly followed in the public credit of the country, both at home and abroad. If gentlemen doubt, let them consult the price current of stock here and in England.

The only allegation, indeed, of anything even approaching to a default in the public duty of the bank, is that contained in page ten of the report, where it is stated "that the amount done under that resolution (to discount notes for those who had revenue bonds to pay) was small," &c. This is certainly a mistake, as has been already shown from the letter of the Secretary of the Treasury, from the evidence of Major Butler, and from the fact that there has been no complaint. Such has been the inclination to censure, that you may rely upon it no well founded cause for it would have been suffered to escape. It is a mistake that arose from the circumstance, acknowledged by a member of the committee, (Mr. Mc-

LANE,) that the inquiry was *ex parte*. If they had asked for information, they would have learned, that at every discount day the directors had before them a list of the bonds that were coming due, and that they uniformly gave a preference to those who were to pay them, as far as they could do so consistently with the interests of the bank, of which I beg leave still to say they were the exclusive judges.

The next object of inquiry is, how the management of the bank has been conducted in regard to the interests of the stockholders. This is altogether independent of the question of violation of charter, which shall be considered separately hereafter.

In the progress of an institution like the bank, founded and established with a view to certain great public objects, perplexing questions might, and would, occasionally present themselves.—The interests of the public might, in some instances, be at variance with those of the stockholders. Which were to yield? If, upon every such occasion, the directors had allowed a paramount influence to the interests of the stockholders, and had sacrificed the public objects to the profits of the institution, the public would then have had some right to complain. But, if every public duty has been faithfully and fully performed, even beyond any reasonable expectation that could have been entertained, it is certainly a very singular inquiry to be made by Congress, whether the utmost has been done for the interest and profit of the stockholders. That is an investigation that belongs to the stockholders themselves, which they are competent to conduct, with the means in their hands of correcting errors, and removing grievances, by changing their officers. And what is to be the consequence if Congress should be of opinion that the institution has not been well managed for the interests of the stockholders? To alter the charter—to take away the charter—or subject it to the wasting and destructive process of a protracted judicial examination by *scire facias*? Have the stockholders made any complaint? Have they asked from us any relief? Not at all; on the contrary they implore us to abstain. You have upon your table a memorial to that effect from Boston, a memorial from New York, and an exceedingly well-reasoned memorial from Richmond, which deserves the attentive perusal of every member of the House. If their interests have been injuriously affected, they have, on that account, a stronger claim upon us. After we had gained so many objects of great national importance at their expense, would it not be iniquitous, yes sir, a national iniquity, now to deprive them, by a wanton exercise of unjust power, of all the hopes of an equivalent, founded upon the public faith, pledged to induce them to embark their property in this concern? Can you restore them to the state in which you found them? Will you return that part of the bonus which has by this time become due, and I presume been paid?—Will you restore to them their stock and coin? Will you, finally, indemnify the subscribers, and

the purchasers, who have bought upon the assurance of the charter, for the losses they will sustain? A gentleman from Virginia, a member of the committee, (Mr. TYLER,) seems to have intended to anticipate some of those inquiries, by saying that the bank, after paying all its debts, could now return to every stockholder "dollar for dollar." A most honorable concession, undoubtedly, as it respects the management of the bank, and one that goes far to answer every complaint against it. For, if the public service has been punctually performed, and the bank (after dividing eighteen per cent. in two years and a half) could now wind up its concerns, and pay every stockholder "dollar for dollar," no man who has the slightest acquaintance with the matter can deny, that it must have been well managed. But how long would it require to gather the funds that have been scattered over the United States, so as to be able to restore them to the stockholders? Seven years have elapsed since the charter of the late bank expired; its concerns were much less extensive in amount, as well as in the space through which they were spread; it expired, too, under circumstances highly propitious for drawing in its resources; and the management of its affairs has been uncommonly able and faithful. I believe they are not yet closed. How long, then, I repeat, would it be, before this "dollar for dollar" would be restored to the stockholders? It is matter of conjecture—but still, with so much of certainty belonging to it, that no prudent man would give a stockholder anything like "dollar for dollar" for his share of the proceeds. Sir, I cannot reflect upon the mighty wreck, without astonishment at the coolness with which even the possibility of it seems to be contemplated. The organization destroyed, the fragments scattered over the whole United States, no longer obedient to any power but the power of time and chance, which, like the winds and the waves, may drive them to the shore, or may drive them where they can never be reached or collected.

The first topic of complaint is the too great liberality towards the State banks. As a charge of error, it may not be wholly without foundation. But it answers, fully and authoritatively, and I hope that the sequel will show, satisfactorily, one of the heaviest charges that has commonly been made throughout the country against the bank—the charge, I mean, of having acted with oppressive rigor towards the State institutions. I am glad the committee have cleared away this ground of accusation. At most, however, it proves only a mistake; a mistake on the right side, and a mistake that was almost inevitable. To bring about the payment of specie, within any reasonable period, and at the same time to avoid a severe pressure upon the State banks, and through them upon the community, it was indispensably necessary to treat those banks with the most indulgent liberality, where ever they manifested a sincere intention to return to the payment of specie. This was the inducement to the compact of the 31st January,

1817. Without such indulgence, the paper of the United States Bank, and that of the State banks, could not have circulated together. A good and a bad currency, or, if you please, a good and a better currency, can never associate in circulation. They must associate upon terms of equality, or approaching to equality, or they cannot associate at all. The Continental money banished gold and silver. When assignats were used in France, specie disappeared. When, by excessive issues, or from whatever other cause, the State bank paper was depreciated, coin was no longer used. Where it is now, from the same cause depreciated, (as in some parts of the Western country,) gold and silver, or notes of the Bank of the United States, equivalent to gold and silver, are not to be found. They will not be found there until either the better currency shall obtain the entire ascendancy, by banishing the State bank paper from circulation, or, by a removal of the causes that have occasioned depreciation, the latter shall be restored to an equality in value with the former, which is on every account most to be desired.

The next subject of complaint and censure is the resolution of the 28th November, 1816, for paying the dividends of foreign stockholders in London, at the par of exchange. I shall assume, for the purpose of treating this subject, a single maxim of justice, which every man will assent to as the only fair and reasonable rule of human judgment. It is, that, where an act is right in itself, the motives or reasons are not to be inquired into as a ground of crimination. They may strip the act of its claim to merit, but they can never expose it to criminal imputation. Charity, indeed, common charity, between man and man, that which the infirmity of our nature demands to be continually exercised towards each other, adopts and applies a much more comprehensive and benevolent rule—that, even where the act is wrong, yet it may be exempt from censure, if the motives were just and good. Sir, without deciding whether that resolution was right or wrong in itself, and admitting that it was one of those "general and abstract subjects to which the resolution of the House did not direct their attention," the report condemns it as a measure adopted with a view to speculation, that is, upon what they suppose to be bad motives. It is true, they take, also, another ground, which I will examine presently, namely, the *possible* loss to the American stockholders and Government. But they do not deny, and I think they most clearly admit, that the directors had a right to make the arrangement.

If it had been the policy of Congress to prevent foreigners from becoming stockholders in the bank, they would have expressed it by a prohibition in the charter. The matter was not overlooked; it was considered and discussed in this House, when the law was passed. If it was the policy of Congress to permit foreigners to become proprietors of the stock—and certainly the refusal to prohibit amounted to an invitation—would the directors have been justified in adopt-

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ing measures to thwart and counteract that policy? It was their duty to execute the law in its spirit—to effectuate its intentions—to subserve, and not defeat, the policy of the Government. If, substituting their own conceptions of what was politic, for the rule given to them by the law, they had pursued a different system, they would have made themselves justly obnoxious to censure and reproach. Now, sir, the resolution in question had two objects—1. The payment, in London, of the dividends to foreign stockholders—2. The payment at the par of exchange. The first of these the report does not much object to. It was done by the late Bank of the United States, as to its own dividends. That bank also remitted to foreigners their interest upon the public debt of the United States, I believe, free of charge. This is powerful evidence that it was advantageous to the institution, for now that the whole history of the bank is before us, its life and its death, I suppose no one will deny that it was very fairly and skilfully managed. We have the example, too, of the Government, in the instances of the French and Dutch loans. Why was the interest stipulated to be paid abroad? Because it was favorable to the credit of the country; it enabled the Government to obtain loans which it could not otherwise have had, or to obtain them upon better terms. The mere inconvenience to the stockholder, the freedom from charges of receipt and remittance, when he has his interest sent to him, instead of being obliged to send after it, is a consideration of great moment—the same consideration which induces an individual to invest his money near to where he lives, though he might take a greater profit by investing it further off. Such an operation, however, was inconvenient to the Government, because it was not within the ordinary range of fiscal management; and, therefore, the Government proposed to exchange the foreign debt for a debt bearing interest, payable to the United States. As an inducement, they offered to increase the annual interest one-half of one per cent. France accepted the offer; the Dutch refused it, estimating the inconvenience of receiving their interest at home at more than the annual one-half of one per cent. Such an operation, though inconvenient and burdensome to the Government, is precisely adapted to the transactions of a bank, authorized by its charter to deal in exchange, and having established arrangements and credits for that purpose. It can remit and pay abroad with as much facility as it can pay at home. To my mind, therefore, it seems that the measure, so far as it regards the payment abroad, was not only justified by experience, by example, and by sound calculation, but that the neglect of it would have betrayed ignorance and want of foresight. I might instance, also, the Louisiana debt, which was taken by a single individual, or a single house, and sold at a profit, by stipulating to pay the interest abroad. The second part of the resolution regards the rate at which the bank would engage to remit, and at which the stockholder

would stipulate to receive the remittance of his dividends. For, we must recollect that it was a mutual contract, binding upon both parties. The bank would pay abroad upon no other terms but those that were prescribed. It cannot be denied that the directors had a right to arrange the terms. Dealing in exchange is one of their legitimate powers, expressly given by the charter; and, as there is nothing which restricts them to successive unconnected instances, there can be no valid objection to such an exercise of the authority as is now the subject of discussion. There can be no doubt, therefore, of their right to “compel the American stockholders to contribute to the public loss” (Report, page 8,) upon exchange operations; and there can be none of its expediency and propriety, provided there was a well-grounded probability of profit instead of loss. The directors had before them the experience of the past. From two tables before me, I can say that, from the year 1791 to the year 1817, inclusive, the average of exchange has been greatly in favor of this country. The first of these is a statement from the Treasury, of the annual gain and loss upon remittances for payment of the Dutch loan, from 1791 to 1809. The gain is \$409,197 20; the loss is \$103,377 06. The clear gain upon the whole of the remittances, is \$305,820 14. The other is a statement of the annual gain and loss by exchange, under the operations of the Commissioners of the Sinking Fund. There is an uninterrupted annual gain, amounting, altogether, to \$482,361 20, with only an *apparent* exception in the years 1815 and 1816. The exception is only *apparent*, for it was owing, not to the state of exchange, but to the depreciation of the currency with which the bills were bought. At the very time, (and it is a convincing proof,) exchange in Boston, where a sound currency was maintained, was at or about par. Deduct those two years, (\$129,640 66,) there is still a total gain of \$352,720 54. As far as the past can afford us any light to look into the future, this exhibition might be relied upon. It was not of a year or years, but an unbroken series of six and twenty years in succession. It was not of a period of uniform character, either favorable or unfavorable. It embraced the infancy of our Government, the arrangement of our finances, years of prosperous commerce, and years when commerce was oppressed by formidable restrictions and impositions abroad, and by prohibitions and embargoes at home. It embraced a long period of peace, and a short period of war, (a proportion which I hope our history may always present;) it embraced, in short, exactly such a variety of circumstances as, in the ordinary course of events, may be expected to happen, and, for that very reason, exactly such a period as a prudent man would select for the basis of his calculation. Experience since, I am informed, has given its sanction to the measure. I do not know the fact, but I am told there has been a gain upon exchange. The committee of directors, who reported against the measure—who are complimented, and deservedly, too, for their able rea-

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sons—were, upon general grounds, in favor of it, as the report will show; and gave “able reasons,” the same which finally decided the board to adopt it, namely, “the effect which it would have in reducing the rate of exchange, by inducing capitalists to invest their funds in the stock, and thereby facilitating the resumption of specie payments.” They were deterred by then existing circumstances, which are now proved to have been temporary; and probably, among others, by the doubt whether a sound currency could or would be very speedily restored. The remittance of the dividends they recommended, without qualification. We are to recollect, also, that one of the terms was a delay of six months. The January dividend was to be paid in the following July, and the July dividend in January. Supposing three months necessary for making the remittance, there would remain three months, during which the bank might have the use of the money, equal at least to one-and-a-half per cent.; and during which, too, the bank would have the range for selecting the most favorable moment to buy exchange. Its range for selection would, indeed, be much more extensive—it would be almost unlimited; for, as it was authorized to deal in exchanges, it would always have funds or credit abroad, to be supplied or drawn upon, according to the state of the market for bills.

If this measure was right to be adopted at all, it was right to be adopted at that time, and precisely for the reason assigned in the letter of Mr. Donnell. If foreigners were to become the owners of stock, it was for the interest of the American stockholder, as well as for the interest of the nation, that the rise should take place before they became purchasers, rather than afterwards. This is a proposition that no one will be inclined to dispute, and of course it cannot, with any color of reason, be denied, that if measures were in the contemplation of the directors, which would have a tendency to enhance the value of the stock, they were bound in duty to adopt them, in the early part of the institution, so that the American stockholder might have the benefit of the rise, and not the foreigner; and the nation have the advantage of the increase of the exchangeable or market value of the stock. The prospect of the enhancement of price was itself an equivalent to the American stockholder for any possible loss on exchange. But, while I agree that paying the dividends in England (which is not objected to) was calculated to raise the price of the stock, for the reasons before stated, I am not satisfied that paying at the par of exchange would necessarily have that effect. If it was likely to be advantageous to the bank, as I believe it was, it was for the same reason likely to be disadvantageous to the foreign stockholder. What the one gained on exchange, the other would lose. The materials for calculation were as open to the one as to the other. The report seems to suppose that it would raise the market in England, and that the rise there would operate upon the market here. The reasoning is incorrect, because it

looks only at one side of the question. We may affirm, with equal truth, that, if it was disadvantageous to the American stockholder, it would depress the market here, and that the depression would affect the market in England. The market abroad for our stocks is regulated by our own, rather than our own by the foreign; though, doubtless, they do somewhat affect each other. The only question, however, at last, is the one which I have before stated, and I hope satisfactorily answered: Was there a reasonable prospect of gain from this arrangement? But the gentleman from Virginia, who was one of the select committee, (Mr. TYLER,) has advanced an opinion, not the less extraordinary and unexpected for the explanation of it given by the chairman. He thinks that even if there was a gain, it would not increase the dividends of the American stockholder, because, if I understand him correctly, the remittances would not be made till *after* the dividend, and the loss or gain would not till then be ascertained. What does he suppose would become of the gain? Would it not go into the general profits of the bank? He did not recollect that, though the remittance would follow one dividend, it would precede another, through the whole term of the charter. It might with equal correctness be affirmed, and for the same reason, that the dividend could not be diminished by a loss on exchange, and then, I suppose, we should arrive at a result exactly right, that the dividends would neither be increased nor diminished. A moment's reflection will convince him of his error. And now, sir, I may be allowed to ask, whether this arrangement is not what every man would have made in his own case? Is it not what every merchant does habitually, and every planter too? Why, then, should we impute it to unworthy motives?

Another, and a heavier charge, in the estimation of the report, is that which relates to loans on the deposit or pledge of stock of the bank. It is not disputed, and it cannot be disputed, that the directors had a right to lend on any sort of personal security not prohibited by the charter. It is equally beyond dispute that the stock was a good security. The gentleman from South Carolina has stated, and the gentleman from Virginia has agreed, that, in the event of a dissolution, the stock loans at par would settle themselves. If that be so, the security is unexceptionable. It is demonstrable, further, that, under the circumstances, the loans on stock were judicious, and for the interest of the institution. These loans did not originate in occasional resolutions; they had their origin in the fourth of the by-laws, adopted before the bank went into operation, in the month of December, 1816. The by law is referred to in the report. There were vices in the banking system, as it was then commonly conducted, which the directors of the Bank of the United States were anxious, as far as possible, to correct. Among them, was the use of accommodation, or “credit drawer” paper. Another, and a very serious one, was the extensive practice of mutual endorsements. A man

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who wished to get a discount was obliged to borrow the name of a friend, and, by borrowing, came under a well understood obligation to lend his own name in return. A connexion was thus formed that involved both in the fate of either. If one failed, he dragged the other after him; and indeed it often happened that, by multiplied entanglements of this sort, the ruin of one man injured, perhaps destroyed, the credit of many. The fourth by-law was intended, and honestly and prudently intended, to diminish these evils. It provided that accommodation paper should not be discounted; and, to limit as much as practicable the evil of mutual endorsements, it invited persons applying for discounts to deposite personal security instead of endorsers. The subsequent resolutions of the board, (excepting that of the 25th August, 1817, which shall be distinctly considered,) were evidently adopted only to carry the fundamental by-law into execution, by extending it to the branches, and by declaring the rates and other terms upon which the several kinds of stock should be received in pledge or deposite. They were thus, by a very obvious reference to the original source, freed from the suspicion of having been produced by occasional motives of speculation, and placed upon their true foundation; which no one, I think, will deny, is solid enough to sustain them. Such was the character of the resolutions of the 18th December, 1816—(Documents, page 65,) and of the 25th July, 1817.

The resolution of the 25th August, 1817, authorized the loan of \$125 upon stock, with two approved endorsers, who, as the report explains it, were only to be security for the 25 per cent. excess beyond the par value of the stock deposited. This resolution, I have no hesitation to say, I do not approve, for reasons, however, very different from those stated in the report. Sir, the directors themselves did not long approve it. The resolution was acted upon but a very short time, not more than a week or ten days, and the amount loaned under it appears, from the documents, to have been small. Let us now for a moment examine the operation of these measures. The amount of discounts on stock remaining unpaid on the 30th July, 1817, was \$5,221,267 60—(Documents, page 60.) The total amount of discounts, then, was \$25,770,120 59. So that there were loaned on personal security about \$20,000,000, and on stock about \$5,000,000, which no one can affirm to have been an undue proportion. If the original by-law, and the resolutions made in pursuance of it, were right, there was now additional motive for desiring to extend their operation—that is, to increase the loans on stock. It was originally designed, as I have already stated, that the capital of the bank should be composed in part of public debt, bearing interest, and to be gradually converted into active capital. The whole of it, exceeding thirteen millions, and including two millions which the bank had endeavored to convert into specie, for the benefit of the country, was redeemed at par on the 31st July, 1817, and in place of it thirteen millions of money

were thrown into the bank, for which the directors were to find employment. If they were desirous to place a part of it upon stock, upon a good security, bearing some resemblance to that which had thus been taken from them, rather than hazard it all at once upon personal security, it was a natural, a prudent, and a commendable desire, and it was in precise conformity with the original plan of the bank, as well as with the "gradual extension" which the report, in one part, thinks was expedient. It was a desire, nevertheless, however prudent, not likely to be gratified. The stock was then rising, and reached somewhere about \$140, as appears from the table of prices exhibited by the committee. They were not to expect stock to be deposited at par, when its market price was \$140. On the contrary, with a rising market, there would be a constant tendency to escape from the deposite, and to disappoint the wish of the directors, which was to increase and not to diminish this kind of security. It was under the influence of views like these, I should suppose, (as stated by the late President, in his examination, among the documents) that the resolution of the 26th of August was adopted, combining the two kinds of loan—on personal security, and on stock, in order to increase the quality of the latter. I repeat that I do not approve of this resolution, and for this simple reason, that, as, in the discounts upon stock, they regarded only the security, and not the person, or the amount, I do not see how the two kinds of loan could thus be combined, without the temptation to lend more to individuals upon the personal security, than was either prudent or proper; inasmuch as the loan upon the personal security was always to bear a fixed proportion to what was considered as lent upon the stock. But the question is, whether it was sincerely adopted, for the reasons given, and not to promote a scheme of stockjobbing. The board soon put an end to its active existence, which must be regarded as some evidence at least of sincerity.

What are the objections made to this kind of discount? Not that they were insecure or imprudent, or unprofitable. No. To the whole of the loans on stock it is objected, that they inflated the price of the stock; in the language of the report, "kept it constantly advancing, until it reached a point where it exploded and fell," (page 11.) The first point to be established, in order to support this position, is, that the stock ever has been inflated beyond its real value. What is its real value? Sir, it is (within certain limits) matter of opinion, matter of conjecture, depending upon a thousand considerations, and, among the rest at the present moment, depending upon the decision of the House. What will it rise to hereafter? No one can tell. It is an institution of great resources, calculated, I believe, if supported by the public confidence, to be a blessing to this nation, in peace a bond of union, a sinew of strength in war. But what, at any given time, will be the price of its stock, I will not venture to predict. Have purchasers been injured? That depends upon what the price

will come to hereafter. But, though I will not undertake to answer either of these questions, nor hazard any opinion upon the value of the stock, yet, in justice to the bank, I will venture to say, that, as far as my knowledge extends, there never was any great moneyed institution established, there never was any great moneyed operation commenced, that produced so little speculation. I do not advance this hastily, and I do not wish it be assented to without full reflection. Speculation, stockjobbing, these are the substance of all the charges, or the coloring spread over them all. Where is the instance of a new institution, in which there was so much steadiness, so little extravagant speculation? The maximum of the price of its stock (see table among the documents) was in the latter part of August, 1817, when it had gradually reached 56 per cent. advance. Do gentlemen recollect, or have they heard what happened when the public debt was funded? One would suppose that nothing could have been less fit to occasion speculation. The amount was fixed, and could not be exceeded; the rate of interest was fixed at the current rate of the country; the period and manner of redemption were also fixed; everything, in short, was reduced to the greatest possible certainty—yet the six per cent. stock rose to twenty-six shillings and three pence. It afterwards fell considerably below par, and did not recover till, I think, after the year 1803. We have another, and a much more striking, instance in the establishment of the late Bank of the United States. The scrip, for which ten dollars had been paid, and no more, rose to two hundred and seventy dollars. Fortunes were made and lost. The roads between the commercial cities are represented to have been covered with expresses, conveying intelligence of the fluctuations of the market, in order that they might be advantageously seized. The stock of that bank, I have been informed, but do not speak positively, afterwards fell below par. Sir, I have seen many moneyed institutions established, and though I have had little to do with them, I have nevertheless had occasion to observe their usual progress. Their history is nearly the same. At first, their stock has an extravagant rise, then succeeds an equally extravagant depression, and afterwards it finds what may be termed its just or natural level, that is, the level at or nearly to which it rests, unless disturbed by some extraordinary occurrence, or moderately advanced by a gradual improvement. The stock of the late Bank of the United States may be considered as having settled at about fifty advance, after all speculation had ceased. In the year 1802, the United States sold 2,220 shares at forty-five advance, and they sold to a person who bought to sell again, and, of course, to sell at a profit. I have always understood that he did sell at a profit. Individuals sold as high as fifty advance. (Seyber's Stat. An.) The permanent advance, therefore, was very little short of what has been deemed the inflated or speculative price of the present bank. I am aware that it may be said, and truly said, that the late

bank had some advantages which the present does not possess. But, the existing bank has also some which were not possessed by the former. At the period we are speaking of, when its stock rose to fifty-six, it had this most striking advantage, that not a year of its charter had expired, and there were above nineteen years remaining, whereas, when the stock of the late bank was at fifty, eleven years had run out and only nine remained. This inflated price, therefore, was very little higher than the level stationary price of the stock of the late Bank of the United States.

It is not correct to say, that it "exploded and fell." (Report, page 11.) Allowing all reasonable indulgence to the figure, it means, if I understand it, that the price was suddenly precipitated, when the artificial means used for its elevation had ceased to operate, or ceased to produce any effect. It is not correct. The table of prices annexed to the report of the committee shows that its decline was gradual, and that decline can be traced to other causes, which I will advert to presently. The price was highest in August, 1817; it began to fail, but not materially, in September, 1817—and it had not arrived at the lowest point of depression, (110) what in the table is called "the lowest price," till November and December, 1818, more than a year after the depression began. The table does not give us the intermediate prices, but we know, from other sources, that the decline was not considerable during the first part of that period. It may be dated, chiefly, from the Summer of 1818, and may be traced to causes which not only had no connexion with artificial means, but are wholly inconsistent with their use.

Again, sir, let us examine, in another point of view, these charges against the loans upon stock.

The price, on the 20th August, 1817, was from 144 to 147, to which it had gradually attained. How could successive repeated advancements of price be owing to a resolution adopted before the organization of the bank, permanent in its nature, and operating uniformly from the first adoption? There is some confusion in the treatment of this part of the subject. One would be led, by the language of the report, to suppose that there were successive measures brought forward from time to time, and calculated continually to stimulate the market, which was stimulated accordingly. The fact is not so; it was a system—the foundation was laid in the 4th by-law, and the subsequent resolutions, all conformable to that by-law, were merely executive or ministerial, to carry it into effect. The committee have themselves furnished the most conclusive evidence that the supposed facilities for obtaining money were not so eagerly seized upon, and for that very reason not calculated to produce the effect imputed. The amount loaned upon stock, prior to the 30th of July, 1817, had been \$8,046,932 64. It was at that time only \$5,221,267 60. (Documents, page 70.) Of course, \$2,815,665 04 had then been redeemed and withdrawn voluntarily, as respects the borrowers, and against the policy and the true interests of the bank. The bank could not lend



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in this way as much as it might prudently desire. This statement is what I alluded to, when I said some time ago that there was a continual tendency in the desposite to escape. That the resolution of the 20th of August (for advancing \$135) had no influence in raising the price, is most evident. On that day it was at \$150, nearly the maximum; it rose but very little in the next three or four days, and then, instead of rising, began to decline.

But this resolution is supposed by the report, (page 11,) "to have given equal facilities to the bankrupt, who had not credit enough to obtain an endorser, and to the capitalist. Stock could be and was purchased without the advance of a cent by the purchaser, who had only to apply to the directors, or to the president and cashier, between discount days, for a loan on the shares about to be bought, and, by what is termed a simultaneous operation, he obtained his discount, and with it paid for his stock. A rise in the market would enable him to sell his shares, pocket the difference, and commence operations anew." Nothing can be more inaccurate, more strikingly inaccurate, than the whole of this reasoning; and nothing more destitute of solid support than the hasty condemnation founded upon it. It fails entirely in point of fact. For, in the first place, the price of stock, on the 26th of August, 1817, was \$150. A loan could be obtained upon it of only \$125. There remained, therefore, \$25 a share to be supplied from the resources of the purchaser. Again: for the \$25 excess beyond the par value of the share, "two approved names" were required. (Documents 79.) Thus the borrower was to find an "approved" endorser, and was to furnish \$25 a share in addition to what the bank would lend him. How, then, can it be affirmed that this resolution "gave facilities to the bankrupt, who had not credit enough to obtain an endorser?" How can it be said that, by means of it, stock could "be purchased without the advance of a cent?" Or that, with the money obtained from the bank, the purchaser "could pay for his stock?" [Here Mr. SPENCER rose to explain, and stated, that the reasoning quoted from the report was not meant to apply to the resolution of the 26th of August, but to the previous resolutions authorizing loans at par.] Sir, the reasoning immediately follows the statement of the resolution of the 26th of August, and seems to me most especially, if not exclusively, applied to that resolution. But I accept the chairman's explanation—and will the reasoning be any better? Rather worse, I think. Under the resolution of the 26th of August, the purchaser was to furnish \$25 a share, in money, and an endorser for \$25 more. Under the resolutions for loaning at par, he would have to advance \$50 a share, which I suppose would be at least as difficult for "a bankrupt," and quite as inconsistent with the idea of buying "without the advance of a cent," as advancing \$25, and finding an endorser for \$25 more.

While I am upon this part of the subject, I would take the liberty of asking a question of the

chairman of the select committee. The report (page 11) says, that "a rise in the market would enable him (the purchaser) to sell his shares, pocket the difference, and commence operations anew." I should be glad to be informed how many times a man must commence such operations anew, how many times he must buy and sell in a market "constantly advancing," before he will make a profit? If the market was "constantly advancing," as the report states it was, it would seem to me very difficult to understand how successive operations could benefit the speculator. I should suppose, from a plain calculation, that the oftener he bought and sold the less stock he would have, and, repeating the "operation" a sufficient number of times, and a slight depression supervening, he would inevitably lose his whole capital.

The report, sir, goes on to charge that the loans were "unreasonable and excessive," were not made "to merchants and traders," but "to a few persons, consisting of directors, brokers, and speculators," and that very little "good business paper was done." (Report 10, 11.) Upon what foundation of fact these charges rest, we are not precisely informed. The members of the committee have referred to a list of borrowers which has not been printed, and they have differed from each other as to the true purport of that list. The member from South Carolina, (Mr. LOWNDES,) one of the committee, has stated that a large proportion of the borrowers were "merchants and traders." It is of no manner of consequence, for it is not denied, but it is agreed that these loans were offered indiscriminately to all who could give the required security, that they were made with impartiality, and without favoritism; and that, in making them, the directors did not regard the occupation of the borrower, provided he offered good security. Was not the security unexceptionably good—the best that could be offered? Suppose the same "speculators" had got discounts on funded debt, would there then be any complaint? Where, then, is the point of this accusation? Do gentlemen mean to establish a high moral standard, graduated not by the laws of the land, nor with any reference to the nature of the subject, by which the directors of the bank are to be governed in exercising a censorial authority over the lives and occupations of those who come to borrow, and by which they are themselves in turn to be tried and censured? We are all of us fond of power, and sufficiently inclined to abuse it. What power could be more dangerous; what more liable to abuse; what more inevitably tending to generate a tyrannical spirit in the heart of man, than such an authority—no matter by whom exercised—to become a censor and inquisitor of the thoughts, and occupations, and conduct of his fellow creatures; to judge them, not by the laws of the land, not by any defined or established rule, but by an arbitrary and fanciful theory of his own creation? Sir, is it not enough that these loans were not prejudicial to the interests of the institution—that the security was unexceptionable—that they were im-

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partial and general? Is it not enough that there were at least very plausible reasons, if not conclusive ones, for making them? Is it not enough that they were prohibited by no law, and that they were made by the directors under a discretion committed to them; that they are still safe and good; that they were made to persons exercising occupations not forbidden by law, who were not prohibited from borrowing, and to whom it was not unlawful to lend? If they were right in themselves, let us not engage in needless inquiries that can do no possible good, and may do much mischief.

But the report expresses surprise "at finding so little good business paper done at the bank and its offices." How, in the course of such an examination, (completed in three weeks,) it was ascertained what quantity of "business paper," usually so called, was done at the "bank and its offices," or what "good" business paper was done, or whether any was done that was *bad*, or whether any good or bad was refused, and for what reasons, I am at a loss to understand, especially as there was no opportunity for explanation. I take it for granted, from other parts of the report, that this phrase is meant to apply, though applied inaccurately, to loans on stock, as contradistinguished from loans on personal security. In that sense, without admitting our right to regulate the business of discounts, the surprise expressed appears to be unwarranted. When the loans on personal security were \$20,000,000, the loans on stock were \$5,000,000; when the loans on personal security were \$30,000,000, the loans on stock were \$11,000,000; and that proportion never was exceeded. (See documents page 70, and table 43.)

There is still another accusation, which I have heard here and elsewhere, and which, for that reason, I have been at some pains to examine. The "curtailment" (says the report, page 11) "fell, in almost all cases, upon the business paper;" by which is here meant the paper for loans on personal security. The table 43 furnishes a most conclusive answer to this allegation.

The greatest amount loaned on stock appears to have been in Jan. and Feb., 1818 \$11,244,514 19  
In Nov., 1818, it was reduced to 8,934,712 94

Reduction . . . 2,309,801 25

The greatest amount loaned on personal security was, in March and April, 1818 \$30,318,932 50  
In November it was reduced to 26,989,992 12

Reduction . . . 3,328,940 38

The reduction on stock is beyond all proportion greater than on the personal security paper.

Take another period—that given by the committee. In July, 1818, the loans on stock were—

November, 1818 . . . \$10,657,125 85  
8,934,712 94

Reduction . . . 1,722,412 91

In July, 1818, loans on personal security were—  
\$28,836,670 28  
November, 1818 . . . 26,989,992 12  
Reduction . . . 1,846,678 16

There is another period stated, (June and July,) which gives a result somewhat different, but still shows the stock loans to have been more than proportionably reduced. The first, however, is most fair, as it gives a reasonable range.

I have gone into these details, sir, not for the mere purpose of differing from the Committee, or pointing out inaccuracies in the report, but to avoid hasty results, from a superficial examination. The conclusion, so far as we have gone, is, that the inferences are not warranted. Every measure is fairly accounted for, provided you examine it upon its own merits, free from the prejudice of extrinsic considerations. I shall trouble you no more with particulars that must, necessarily, be tedious and uninteresting. There is one allegation of the report, however, which the chairman has voluntarily corrected, admitting that the language is broader than he meant it to be. It is the assertion, in page ten, that "the principal business of the bank certainly has been to discount on notes secured by a pledge of stock;" an assertion which, as it stands in the report, did certainly occasion some astonishment. It is now explained to be meant only of the operations at Philadelphia. We have no table that shows how much of each kind of paper was done at Philadelphia, and, therefore, cannot fix with any precision what is to be understood by this vague expression, "the principal business." But, is it not easy to account, and to account fairly, too, for the fact, supposing it to be as stated? The largest loans on stock would naturally be where the largest quantity of stock was held, and where there was most of that kind of security to offer. The largest loans were accordingly at Philadelphia and Baltimore. The list of subscriptions to the bank (No. 47) gives us the following: At Philadelphia, 88,529 shares; at Baltimore, 40,141; at New York, 20,012; at Boston, 24,023. It is worth remarking, though not directly applicable to the present purpose, that at Charleston there were 25,986 shares subscribed, more than either at New York or Boston. At Richmond, 16,987 shares; at Washington, 12,708; and at Lexington, Kentucky, 9,587—nearly half as many as at New York. I would remark, further, with regard to the loans on stock at Philadelphia, that they were not confined to stockholders in Philadelphia, but a considerable part of them was for persons residing in different parts of the Union, who, from some cause or other, found it most convenient to get their loans there. This is a fact well known to all the committee, from whom I have derived it.

But the heaviest charge of all, in the estimation of the report, that which pervades and gives a color to the whole, at the same time that it is of no manner of importance in the present inquiry, is the charge of speculation, made against

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individual directors and officers of the institution. How far it may be justifiable or proper thus to scrutinize the private transactions of men, in order to fasten upon them, by what is termed an *ex parte* inquiry, the imputation of an undefined and undefinable offence—to hold them up to public odium, under the authoritative sanction of a committee of this House—it would be useless now to inquire. Speculation and speculators, sir, are terms of very vague import, and of very extensive application. There are speculators of many kinds—there are speculators in lands—there are speculators in merchandise—there are speculators in manufactures—there are speculators in stocks; the variety is infinite, and in no country upon earth greater than in this. Everything about us invites to speculation. Such are the resources, such the youthful energy of our happy country, that a man can scarcely apply his labor or his money amiss; wherever he employs them he is sure of a liberal and rapid increase. Not an axe sounds in the forest, without adding to the sum of national wealth. I should like, then, to know, in what the discrimination consists, which makes one kind of speculation offensive, and another innocent, if both are permitted by law, and neither unfairly or fraudulently conducted. What is the difference between speculating in land, and speculating in merchandise, or the stocks? Sir, the charter does not prohibit dealing in the stocks, either to directors or to the officers of the institution; it is, therefore, not unlawful or criminal. The omission, with respect to the officers, cannot have been casual or accidental. If my recollection be accurate—I do not speak positively—it was prohibited, as well as every other kind of trading, to the officers of the late Bank of the United States. I know it is prohibited by law in most of the State institutions. It is impossible that it should have escaped the attention of Congress. But let us examine this matter, and not be carried away by general denunciation. That a man might subscribe, and yet be a director, is not to be questioned; none but a subscriber could be a director. Every subscription had a view to profit or advantage, and was so far a speculation. Every large subscription had a view to profit by selling, and the larger the subscription, the greater speculator was the subscriber, and the more was he interested in advancing the value and price of the stock. Was he, on that account, incapacitated to be a director? On the contrary, was it not thought, and with some appearance, at least, of reason, that the greater his stake in the institution, the more he would feel interested in its prosperity? Again: the committee, adopting a distinction I do not very well understand, find no fault with a director for buying or for selling. And yet, is it not most obvious, that the one operation would make it his interest to depress, and the other to raise, the price; that in the one case he might buy as cheap, and in the other sell as dear as possible? The whole censure of the report is directed against those who bought and sold—who dealt in the stock. It would be very

difficult to make out that one who thus dealt in buying and selling was more likely to be affected by it in his conduct as a director, than one who only bought, or one who only sold. On the contrary, as his interest would be sometimes on one side, and sometimes on the other, he would be less likely to be permanently influenced, or influenced at all. But this is, itself, mere matter of speculation, and speculation of the most dangerous sort; because it subjects the conduct of men to speculative examination, and to speculative conviction. It is a speculation upon character, where there ought to be, and where there is, a plain practical rule that will be sure to guide us to a safe result. Upon this part of the subject I wish to be clearly understood. The rule a man may think proper to lay down for the government of his own conduct, is one thing; the rule he will adopt in judging the conduct of others, is another. If he choose to fix a standard for his own government, no matter how high he may raise it, if he aim at all the perfections contained in the table of the illustrious Franklin, so much the better. If he should fail, as he assuredly will, of reaching the highest point, he will nevertheless be rewarded for his pains. He will promote his own happiness, and, from the difficulties he has to struggle with, he will learn a lesson of charity towards others, which increased contentment with himself, at every step of his progress, will every day more and more qualify him to practise. But when a man comes to judge the conduct of others, let him beware how he applies to it a severer rule than the law of the land and the law of their peculiar condition has laid down. Sir, I know nothing, by experience, of speculation. I have never dealt in the stock of this bank. I have never bought a share, nor sold a share, nor been interested in the purchase or sale of a share. I have never borrowed a dollar from the bank. But I claim no credit for forbearance. When I am not here, endeavoring to serve my constituents according to the humble measure of my abilities, I am engaged in the labors of a profession which do not consist with engagements in trade, or dealing, or speculating, or borrowing. These are no part of my business, and whether I abstain from them because I think it prudent, or because I think it right—from motives of policy, or from motives of a higher nature—is altogether indifferent. I choose to abstain from them, and no one has any right to inquire why I do so. I acknowledge that I should be wanting in consistency of character, and might be justly exposed to suspicion, if, upon becoming a bank director, I were to abandon my former habits and occupations, and become a dealer in money and in stock. But, if you make directors of men whose daily business and occupation it is to trade, to buy and to sell, to deal in stocks and in money, and such men are not proscribed, they are indeed the very men who are deemed best qualified to be directors—do you expect them thenceforth to give up their occupations, to purify themselves from the love and desire of gain, in order that they may be qualified for the

due performance of the trust, or escape the charge of being speculators and stockjobbers? It is idle to talk of it. Nobody expects it, nor do I know that it is to be wished. If there is any evil experienced, the stockholders have power to correct it by election or by law. But, there is a plain practical rule upon this subject, safe and sure in its application. Has all this imputed speculation affected prejudicially the interests and management of the bank? If the trust has been betrayed, if the bank has been mismanaged towards the public, and the property of the stockholders sacrificed to subserve the purposes of speculation, let condemnation fall with its heaviest weight upon those who have abused the confidence reposed in them. This is the question, if we are to discuss any question respecting the management of the bank. To this question I have endeavored to draw the attention of the House; and if the views I have presented be at all correct, I think it has been fully and satisfactorily answered.

Justice to those who have had the direction of the bank requires a few words more. You have, it seems to me, the strongest positive evidence of the sincerity of the directors, and of their confidence in the administration of the bank. Did they sell out before the fall of price took place? With one only exception, I believe—any member of the Committee can correct me, if I am in error—with one single exception, the directors, who are charged with speculation, held and continued to hold at that very time quite as large if not a larger quantity of stock than they had held at any antecedent period; thus resting their own hopes and fortunes upon the stability of their measures. Again: the fall of price itself was owing to their own acts of management—acts that were necessary and proper, but which they must have foreseen would unavoidably depress the market. We know full well that it is the rate of dividend that chiefly regulates the permanent price of every stock. Did they ever make an unjustifiable dividend? It is not pretended. The first serious impression made upon the market, was by the reduced dividend of three and a half per cent. in July last. I say reduced, in comparison with the former dividends, which had been four per cent. That affected the stock. Then came the change in the character of the branch notes, which occasioned some uneasiness, and much unfounded clamor. At the same time there was a rapid reduction of discounts, which had the double effect of lessening the prospect of dividends, and of diminishing the quantity of money in circulation; both calculated to lower the price of stock. These were measures necessary and proper for the security and safety of the institution, now approved by every one; but they were all measures most obviously unfavorable to the market. They were adopted, and persevered in by the directors, because they were necessary and proper, who thus gave to the public and the stockholders the surest pledge of their fidelity to the trust, and of their determination to give it a preference to any interests of their own.

Of the officers of the institution, it would be sufficient to say, that neither the law nor the stockholders restrained them from trading, and there is no reason to believe that they have in any instance neglected or betrayed their duty. In what I have heretofore submitted to the House, I have founded myself almost exclusively upon the documents furnished by the committee. Will the House permit me to say one word from my own personal knowledge? Sir, I have had full opportunity to observe the conduct of the late president, (Mr. Jones,) and I can assure the House that I believe no institution ever had a more honest, zealous, and devoted officer. He has sacrificed his health in its service, by incessant and laborious exertions to promote its prosperity, which seemed, indeed, to be the only object of his thoughts and cares. I know not who may be hereafter placed at the head of the bank, nor will I pretend to enter into any comparison of other qualifications; but I am sure that I wish no bad wish for the institution, when I express a hope that all its future presidents may be as faithful, as honest, as industrious, and devoted, as Mr. Jones.

It is time to come to a conclusion of what relates to the management of the bank. Can I ask more to sum up the evidence of its fidelity, than the statement of the gentleman from Virginia, (Mr. TYLER,) that if dissolved it is now able to pay dollar for dollar?

That there have been some errors cannot be doubted, but they have been mere errors, such as will happen, and they have always been on the right side. Among them, however, I do not consider the practice of selling drafts to be one. It is the right of the bank, admitted to be so in the report, (page 5.) It is perfectly fair, and one of the most legitimate sources of profit, inasmuch as it is expressly indicated in the charter. Upon what principle, then, is it, that what an individual may do without reproach, is not to be done by the bank? Why, having a fair marketable commodity to dispose of, shall it not sell at the fair market price? Why should it not in this respect be put upon an equal footing with individuals? Until these questions are answered, it is unnecessary to say anything further. A premium or advance is an indemnity for the remittance of funds, varying a little, according to circumstances. Ought the bank to remit the funds of individuals at its own expense? It would be unjust as respects the bank; it would be objectionable as regards the community; for it would open the door for favoritism and partiality. A fixed rate (which the report, page 5, thinks ought always to be observed) is plainly impracticable. But of this I need say no more. It is now settled upon its just foundation; it is the right of the bank, and does no wrong to any one, as no man is obliged to buy from the bank, or sell to the bank, but makes the bargain voluntarily and for his own convenience. I am confident, however, what the report says in page 5, of the fluctuation from one to five per cent. is incorrect. It must be a mistake.

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I forbear to trespass further on the patience of the Committee upon this part of the subject, and proceed at once to the second general ground of inquiry.

Has the charter been violated so as to work a forfeiture? This single question would afford materials for a very copious discussion—much more copious than I am disposed to undertake, after having already taken up so much of your time. I would address myself first to those gentlemen who hold the opinion that Congress have no Constitutional power to charter a bank. Such an opinion, I know, admits of no compromise, but certainly there is a great difference between the question that arises when it is proposed to establish a bank, and that which presents itself when it is proposed to pull down and destroy an established institution. The very repeal of a law admits its Constitutional validity, for, if it is unconstitutional, it is void of itself; and, therefore, a vote for a repeal can scarcely be regarded as the expression of an opinion that the law is unconstitutional. I lay no stress at this time upon the repeated recognitions, which must now be considered as having definitely settled the construction of the Constitution. Every one can give it its due weight. But, I would ask gentlemen to remember that the charter of this bank received all the Constitutional sanctions, was promulgated to the country and to foreigners as a Constitutional law, and has now been two years in force. Great interests are connected with its existence, incalculable mischiefs, public and private, will follow its repeal, and among them not the least considerable will be the wound inflicted upon the character and credit of the nation. How shall we stand in the estimation of foreigners? I am afraid to follow out the inquiry. Let every one reflect for himself, and, as he values the national reputation, so let him decide. I cannot, however, at all understand the grounds upon which gentlemen who have Constitutional objections can vote for a *scire facias*. That proceeding distinctly admits the legal existence of the bank, and sends it to the judiciary to be tried for its life, to determine whether it has not forfeited its right to continue longer to exist—an admission wholly inconsistent with the opinion alluded to. But, of this, every member must judge for himself.

If Congress had a power to incorporate a bank, and have exercised that power according to the Constitution, no argument can be necessary to prove that we have no right to repeal the charter. This is a settled, established principle, founded in the nature of the power, and almost universally conceded. Chartered rights are sacred things; they are the rights of individuals, guaranteed to them by the public authority, and of which no lawful authority can deprive them but that which the charter itself prescribes, or which is implied from its nature to be exercised in the manner pointed out by the charter, and according to the law of the land. Any other mode of proceeding to deprive this legal being of existence would be an act of lawless, unjust violence, as much for-

bidden as to legislate away the life of a natural being. That we have a right to send this corporation to the judiciary, there to undergo its trial and receive its judgment, no one can deny, for so the charter has expressly provided. It is equally clear, I think, that we are to exercise a sound discretion. If we are satisfied that the charter has been so violated as to work a forfeiture, still the question of expediency is open. We may deem it for the public interest to continue its existence, without alteration, to organize, if its organization has been impaired, to propose changes in its structure, or to let it go down, and, if needful, raise up a new institution. We are not bound, even in that case, in the case of a clear and unequivocal forfeiture, to send it to trial and condemnation. Is it not equally plain, that we ought not to send it to trial, if we are satisfied that there has been no forfeiture? Why expose ourselves to the certain consequence of a failure? It will assuredly not increase the public respect for our conduct. We may lose somewhat in the public estimation. Why subject the bank to the destructive effect of a protracted criminal proceeding, when no offence known to the law has been committed? A gentleman from Virginia, (Mr. TYLER,) calculating that such a proceeding would not be terminated in less than eighteen months, says, it would give time to wind up the concerns of the corporation, which, he thinks, might be done most advantageously for the stockholders. He takes it for granted, then, that the corporation would be condemned; that a *scire facias* and conviction are the same thing. But the officers of the corporation will not so consider it; they are not at liberty so to consider it; they must go on and discharge their ordinary functions in the ordinary way, until its doom shall be finally pronounced; and then, and only then, would they be justified in commencing the arrangements that are to follow its dissolution. Till then it is a subsisting corporation, entitled to enjoy all its rights, and bound to perform all its duties. But, let us suppose a more favorable issue. Let us suppose it to be acquitted. Will it pass through the trial unhurt? This artificial being, though it has not precisely the same sort of susceptibility as the natural being, is nevertheless exquisitely susceptible; it may be wounded, dangerously wounded, in its credit. This is its living principle, the source of all its healthy action, upon the preservation of which the capacity to perform its functions mainly depends. There it will be wounded by the mere institution of a criminal proceeding.

It behoves us, then, carefully to examine the ground before we determine to proceed. What, I ask, then, is such a violation of the charter as will work a forfeiture? The report admits that there is a distinction in this respect, and that there may be violations or non-compliances which do not forfeit. It must be so. Every act that is forbidden by any law which it is bound to obey, every failure to do what any such law requires, no matter how minute, or to what cause owing, is a violation or non-compliance with the char-

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ter. It surely will not be pretended that every such violation or non-compliance amounts to a forfeiture, no more than that every such act or omission by an individual would merit the punishment of death. The act done may be void, because it is illegal; it may incur a particular penalty, because it is to a certain extent criminal, but it will not therefore amount to a forfeiture—the extreme punishment for extreme offence. What, then, I repeat, is such a violation? In the first place, it is obvious, from the charter itself, (section 7, 23,) that it must be an offence of the corporation. The acts or defaults of officers, servants, or agents, do not necessarily work a forfeiture. Neither is it to be supposed that error, mistake, or even every species of misconduct will cause a forfeiture. It can only be by such departure from, or neglect, or, if you please, violation of, the fundamental and vital laws of its organization, as incapacitates the corporation to perform its duty, or does of itself determine its existence. These offences, if they are so to be termed, can be reached or redressed by no other means. If, for instance, an election had not been held at the time appointed by the eighth section, without the saving provision of that section, there could have been no election at all, and, for want of an integral and vital part of its organization, the corporation would have ceased to exist. The charter itself has made the distinction. In the ninth article of the eleventh section, the corporation is expressly prohibited from dealing, except in certain enumerated articles, and among them is public debt. In the tenth article, it is prohibited from making loans to the United States, or to particular States, beyond a limited amount. It would violate the charter if it were to offend against either of these articles. What then? Is the charter forfeited? No. The twelfth and thirteenth sections establish the sanction for these prohibitions, by providing specific penalties to be inflicted, not upon the corporation, but upon the individual transgressors. In the seventeenth section, also, the penalties are denounced for refusing to pay specie.

To sustain the contrary doctrine, the gentleman from Virginia has quoted and relied upon the famous proceeding, by *quo warranto*, against the city of London, in the time of Charles II. It is a bad precedent from bad times. Sir, the administration of private justice, in England, between man and man, has for a long time flowed in a clear and steady current. You may generally appeal with safety to the precedents it affords. But, when you come to examine the proceedings in Crown causes, you will err most lamentably unless you are aided by the light of contemporaneous history. Is the gentleman from Virginia acquainted with the character of the precedent he has quoted for our imitation and adoption? I will take the liberty to refer him to the historian for an account of it. It occurred in the year 1683, at a time when the royal prerogative, already most alarmingly extended, was abusing the power it had derived from the circumstances that attended and followed the resto-

ration, to obtain an unlimited ascendancy. To break down and crush the spirit of the city of London, was a favorite and important part of this system. The charges against the city were two. The markets had been destroyed by the fire of 1666, and new ones rebuilt, with many conveniences. To defray the expense, a small tax had been assessed upon goods brought to market. This was the foundation of the first charge. The second and real ground was, that the city of London, always on the side of the liberties of the people, and opposed to the arbitrary extension of the prerogative of the Crown, had addressed the King against the prorogation of Parliament. "The office of judge was at that time held during pleasure, and it was impossible that any cause, where the court bent its force, could ever be carried against it." If the gentleman wishes to know how the pleasure of the Crown was signified in the instance referred to, he may find it in the book he has used, at page —, to the following effect: "Memorandum. That when the demurrer in this case was joined, viz., Mich. Term, 34 Car., 2, Mr. Sergeant Pemberton was Chief Justice of the King's Bench. But, before Hilary Term, that it came to be argued, he was removed, and made Chief Justice of the Common Bench, and Sir Edward Saunders, who had been counsel for the King in drawing and advising the pleadings, was made Chief Justice of the King's Bench." The bloody Jeffries was the next Chief Justice. Does any gentleman still think this a precedent to be offered to our imitation? I will then beg leave to tell him further, that this decision took place in the very year whose annals are stained with the blood of Russell and of Sidney. It is one of the dark and atrocious offences committed by a dependent and corrupted judiciary, under the forms of justice, at the instigation of the Crown, which history has long since consigned to distinguished infamy. It is one of a series of arbitrary and oppressive acts that, rousing the spirit of a brave and injured people, finally expelled the Stuarts from the throne of England, and caused the revolution of 1688. The corporation of London was of course condemned, and the King availed himself of the decision to grant a new charter, which he took care to adapt to his own views, of repressing the spirit of London, and curtailing its liberties. All the corporations of England—all, guilty or innocent, convinced that if the most powerful body of the kingdom had sunk under a contest with a corrupted judiciary, executing the arbitrary wishes of the Crown, resistance on their part would be vain—came in, surrendered their charters, the security of their rights and liberties, and accepted such new charters as the Crown would condescend to give, paying for the privilege of being robbed of their rights such sums of money as the Crown thought proper to exact. The revolution gave independence to the judges. One of the first acts of the Government that succeeded, was to declare this decision illegal and void, (2 W. & M., s. 1, c. 8.) By the judiciary it was never respected; but, in all questions afterwards

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arising, the old charter was considered as having always continued in force. What is the language of modern and sound authority in England? "A judgment of ouster against mayor and aldermen, does not dissolve a corporation. God forbid," says an English judge, that the rights of the innocent should be lost and destroyed by the offence of individuals. When a corporation exists, capable of discharging its functions, the Crown cannot obtrude a new charter upon them." Thus repudiated and reprobated in England—thus condemned by its history, as well as by its association, are we to adopt this precedent? The violation of charters has ever been deemed an enormous grievance. It was one of our complaints against England, and thought worthy to be introduced into the Declaration of Independence, where it stands enumerated among the solemn causes that led to the separation.

I would beg leave to add further, before I examine the particular offences imputed, that where a violation has taken place, I cannot conceive that it will work a forfeiture, if there be a specific remedy, redress, or penalty. A forfeiture in that case is unnecessary.

I shall touch very briefly upon the several imputed offences contained in the report, not only because I have already trespassed too long, but because the principles I have submitted go far to settle them, and also because they have already been fully and satisfactorily answered by a member of the Committee, (Mr. LOWNDES.)

The first of these charges relates to the two millions of public debt purchased by the bank for the Commissioners of the Sinking Fund. I think it clear that, in the question with the Treasury, the bank was in the right; and the obvious mode of correcting the error that has occurred, would be to pay to the bank the \$54,000 lost by passing the stock to the commissioners at par. But no one, I think, after a moment's reflection, can hesitate to say that there has been no violation of the charter, and every one will admit that, if there had been, the Government could not complain, having been a party, with full knowledge, to the transaction, and enjoyed all the benefit of it. The object of the charter was to prevent the bank from purchasing to keep or to sell—that is to say, purchasing for its own use. It purchased, in this instance, for the Treasury; it passed the stock immediately to the commissioners, and all the peculiarity of the case consists in the single circumstance that it received from the Government \$54,000 less than it paid. It is needless to spend time on this item; for, if there has been a violation, there is a remedy for it by the charter, to be enforced under the charter, and not by destroying the charter.

The second imputed violation is what relates to the non-payment of the coin part of the second instalment. There is some apparent confusion upon this subject in the report, and there is one plain mistake. It will be necessary to ascertain the facts accurately, before we attempt to reason upon them. In page 7 of the report it is stated, "that the amount of specie in the bank in Feb-

ruary, 1817, was \$1,724,109; 324,000 more than the coin part of the first instalment, and which may fairly be presumed to have been received for the second instalment." The inference is, that only \$324,000 in coin had been received for the second instalment. This seems to be contradicted by the statement in page 6. The committee there say, "the loans were to be confined to aid the payment of the coin part of the second instalment, on the shares which had been subscribed at the places where offices were then in operation—New York, Boston, and Baltimore." They then add, that the total amount of these loans, at Philadelphia and Baltimore, was \$338,250; that at New York and Boston they were "to a very trifling amount, if any;" and that, in other parts of the Union, the coin part of the instalment was paid in coin. The view of the committee would prove, that all the coin part of the second instalment had been paid in coin, excepting about \$338,250. We have, however, the clearest proof of the real state of the fact in table V, among the documents.

It appears from that table that, in February, 1817, there were in the vaults of the bank in Philadelphia, Boston, New York, and Baltimore, in specie, exactly what the committee state - - - - \$1,724,109 06

But there were, at the same time, due from the commissioners for receiving subscriptions, \$8,559,764 95, the coin part of which must have been received in coin, and would be rather more than 2,000,000 00

Making together - - 3,724,109 00  
The total amount in coin, required for the second and third instalment, was - - - 4,200,000 00

So that the total deficiency arising from discounts at Philadelphia, Boston, New York, and Baltimore, did not exceed - - 475,991 00  
Of which there were in Philadelphia and Baltimore \$338,250.

It thus appears that the amount is much less than seems to have been supposed; that it could not have occasioned the necessity of importation "to supply the deficiency the evasion had occasioned;" that it could not have injured the punctual stockholders, nor materially affected the operations of the bank. On the contrary, it may, I think, be assumed as probable, that the mere knowledge of the fact that this accommodation might be obtained kept down the price of specie, and really benefited the stockholders, as well as contributed to bring about the resumption of specie payments.

But, small as it is, there is a much stronger ground of justification. I allude not now to the circumstance that an inquiry was instituted by Congress at the time of these transactions, and they not only escaped censure, but appeared to be approved. That would, and ought to be, an answer here—for Congress might then, by inter-

posing, have arrested the proceeding. But the necessity which then justified it in the sight of Congress still affords it a justification. The bank was bound to go into operation on or before the first Monday in April, 1817. It was the wish of the Government, founded upon the exigencies of the public, that it should commence much sooner; and, yielding to that wish, it did commence, before the second instalment was payable. What were its operations? Receiving deposits, discounting, issuing paper—each of which, to a certain extent, disabled it to enforce the precise literal terms of subscription. They could not refuse to discount for a stockholder, merely because he was a stockholder; they could not refuse to receive their own notes, or checks upon the bank, as equivalent to coin. That would have been absurd—as they were bound to pay coin for them; and would, besides, have been a substantive violation of charter. They might have refused the notes of State banks; yes, they might, but what would have been the consequence? They must have violated the compact that had been entered into, and thrown everything into confusion. I am discussing the matter as if it were established that they did receive the notes of State banks. It does not appear whether they did or not. And, after all, what harm has been done? Is the bank in a worse condition, or the public injured? It cannot be pretended.

The third item of complaint is too small, in itself, to merit much attention. It appears (Documents, page 114) that dividends to the amount of one thousand four hundred and sixty dollars were paid to four stockholders, who had been in default when the dividends were declared. There is an unintentional ambiguity in the mode of stating the charge, in the report, which might induce a belief that the instalment had not been paid at the time of paying the dividend. From the documents it will be seen that the instalment was paid, and that interest was charged upon it from the time when it became payable. The utmost loss that could have been incurred, would have been the difference between four per cent. and three per cent. for six months; equal to three hundred and sixty-five dollars. It was not, perhaps, so much; for the interest was probably charged up to the time of paying the dividend, which was more than six months. Whether these payments were made by mistake, or whether there were any peculiar circumstances to justify them, does not seem to have been inquired into, and cannot be ascertained. But every one must be satisfied, that, whether the payment was intentional, or whether it was by mistake—whether it was right, or whether it was wrong—the consequences cannot extend beyond those who were concerned in it. The money might, perhaps, be recovered back, or the officer be charged with it as a wrongful payment. It can never forfeit the charter.

The only remaining article is that which regards the elections—particularly the first. This charge is, in substance, neither more nor less than that votes were received which the com-

mittee believe to have been illegal, and that the judges of the election, and directors and officers of the bank, "perfectly well knew the facts," which, in the opinion of the committee, made them illegal. As there were no directors till after the first election, I do not see how they can be implicated in the charge, so far at least as relates to that election. But, waiving that, and waiving too the inquiry whether the judges had any right to refuse the votes, (a very doubtful matter, to say the least of it,) let us examine the matter a little more closely, with a view, not to its foundation in fact, but to its legal results. I have never understood, nor do I believe, that any number of illegal votes will make an election void. There are circumstances that will undoubtedly avoid an election. If an armed force, of soldiers or others, were to surround the polls, and by violence, or the menace of violence, prevent the electors from voting, or otherwise interfere with the free exercise of their franchise, the election ought to be held void. But the mere circumstance of illegal votes being received, is of no importance, unless the election is contested. And what is then the rule? The chairman of the Committee of Elections will answer that question. Where the election is by ballot, the illegal votes are all deducted from the majority. Suppose there is still a majority, is the election void? No. The highest on the return is the person elected. Suppose there was no opposing candidate, is the election questionable? I believe we have never heard of such a thing. Again, sir, suppose the election not to be tested—the returned member takes his seat, and holds it till his term of service has expired. Is his right afterwards questionable, or the validity of the acts he has done? I have never so understood it. These are the ordinary rules applicable to such cases. How do they apply here? Illegal votes, it is said, were received. Was there any opposition, or were all the votes, legal and illegal, given for the same ticket? Was the election contested? Has not the time for contesting it gone by? Supposing it still open to contest—can any one inform us how many legal and how many illegal votes were given, or what would be the state of the poll if the illegal votes were deducted from the majority? These are matters necessary to be ascertained in the first instance; and until they are ascertained, at all events, the election is good, and the acts done under it valid. Even where an election is contested, the returned candidate takes his seat, and holds it, with all its rights, voting and acting with others, until the contest is decided. But, again; was it ever heard that the mere fact of receiving illegal votes at the election of corporation officers, was a forfeiture of the charter? Every corporation in the United States might tremble if that were the law. No: You may invalidate the election before the proper tribunal—you may set it aside. The judiciary may inquire into it—may expel those who have been introduced by illegal means—may introduce those who have been by illegal means kept out. These are the appropri-



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ate and all-sufficient remedies, which we have frequently seen employed, and employed with effect. They apply directly to the evil where it is found—correct that evil—but leave the innocent corporation, and the innocent corporators, in the enjoyment of their rights, which these remedies are intended to preserve, and not to destroy.

I had intended to have noticed the propositions brought forward by the chairman of the committee. It would be unpardonable to consume more of the time of the House. A single remark upon them and I have done. Among those propositions there are several that would be highly advantageous to the bank. If they were offered to its free acceptance, perhaps they would be accepted. But, under the threat of a *scire facias*, they ought not to receive a moment's consideration.

TUESDAY, February 23.

Mr. H. NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to authorize William Prout to institute a bill in equity before the Circuit Court for the District of Columbia, against the Commissioner of the Public Buildings, and to direct a defence therein," reported the same without amendment; and the bill was ordered to be read a third time to-day.

Mr. RICH, from the Committee of Claims, reported a bill for the relief of George M. Brook and Edmund P. Kennedy; which was read twice, and ordered to be engrossed and read a third time to-morrow.

*Ordered*, That the Committee on Roads and Canals be discharged from the further consideration of all the petitions, memorials, and other matters, to them referred at the present session, upon which they have not acted, and that the same be laid on the table.

The House, on motion of Mr. RICH, reconsidered the vote of yesterday which rejected the bill for the relief of the heirs of William Reed; and the bill was laid on the table.

The engrossed bill supplementary to the act for the relief of Benjamin Wells was read the third time, and passed.

The bill from the Senate for the benefit of William Prout was read the third time, and passed.

The amendments of the Senate to the bill regulating passenger ships and vessels were taken up, and agreed to—one of them with an amendment.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to repeal part of an act passed on the 27th day of February, 1813, entitled 'An act in addition to an act regulating the Post Office Establishment,'" "An act for the benefit of Jacob Purkill;" and "An act respecting the transportation of persons of color, for sale, or to be held to labor"—in which bills they ask the concurrence of this House.

### FRANKING PRIVILEGE.

The House took up the bill to extend the privilege of franking letters, &c., to the Secretary of the Senate and Clerk of the House during the recess of Congress.

The bill was amended, on motion of Mr. TALLMADGE, by including in its provisions the Speaker of the House.

Mr. GARNETT moved to amend the bill by adding thereto the provisions of the bill freeing from postage letters and packets to and from certain officers of agricultural societies. This motion was lost; and,

The question being taken on ordering the bill to be engrossed and read a third time, it was decided in the negative; and the bill of course rejected.

### BANK OF THE UNITED STATES.

The House again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Bank of the United States—Mr. JOHNSON's resolution for repealing the charter being still under consideration.

Mr. SERGEANT concluded the argument which he commenced yesterday—occupying to-day more than two hours in defence of the bank—as given entire in the preceding pages.

Mr. PINDALL again rose. He was (he said) sensible of the attention with which the House had already indulged him in this debate. He would therefore consume but a little more of its time, in replying to some of the grounds which had been occupied with so much skill and address by gentlemen who opposed the resolution for the repeal of the bank charter. The gentlemen from South Carolina and Pennsylvania, (Mr. LOWNDES and Mr. SERGEANT,) who had displayed so much ability on this occasion, had been unable to discover any fault, not even the most venial sin, in the bank; on the contrary, they find it covered with virtues and perfection, and occupying a station almost superhuman. The gentleman from South Carolina had yielded his applause to the bank, for its disinterested generosity in aiding the credit of the State banks; as an instance of which, the gentleman had quoted the agreement of the 31st January, 1817, with the receiving banks, when he imagines the interest of the institution would have dictated a refusal of that agreement, whereby the notes of the State banks would have been refused at the Treasury, and discredited by the public: so that the National Bank would have succeeded in obtaining the confidence and business of the country. Now, said Mr. P., let it not be forgotten, that, after the receipt of the first instalment, the bank found itself the owner of only \$1,800,000 in specie, and that a secret understanding subsisted between the directors and stockholders, whereby the subsequent specie instalments were to be evaded. Whilst I admit, that, if the credit of the State banks could have been totally destroyed, the country would have been forced to turn its confidence and address its business to the National Bank, I insist that the bank was not in a condition to re-

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spond to the confidence or business of the country. It would, on the cessation of the currency of State paper, have been involved in the necessity of emanating its notes to supply the vacuum occasioned by the banishment of State paper; and to have ventured on that measure as suddenly as the crisis would have required, must have insured certain ruin, as it could not have commanded the specie to redeem such abundant issues, which would, however, have been speedily returned to it for specie, by the numerous State banks, that must and would have combined against their common enemy.

Had the bank divided and distributed all the specie it possessed, at an early period after its commencement, among its fifteen branches, and issued its paper in the quantities requisite to supply a currency, a few weeks, or indeed days, would have emptied the vault of its last dollar, or obliged it to withhold the payment of specie, and thereby reduced its credit to the level of the State banks. Why, then, is the bank applauded for its forbearance of a rigor to which it never dared to resort, or praised for a moderation to which it was confined by its own delinquency and weakness? To the charge that the bank had resorted to usurious practices, in loaning post notes payable at sixty days, at an interest, as though the money had been immediately advanced, when in fact it would never be advanced by the bank, as the borrower's notes would be payable as soon as the post notes, and that there was no authority to suppress such extortions, the gentleman from South Carolina replies, showing the great convenience of post notes for transmission by mail, in lieu of specie, and the security they afford against losses, as they were not payable to bearer. But I ask, whether this answer should be urged? The bank, on the loan of silver dollars, should only be entitled to the same interest to which others are entitled. Post notes are more convenient than dollars; and if, on account of that convenience, the bank may receive more than legal interest, it may also receive more than legal interest on loans of its own ordinary bank bills, for they, too, are more convenient for transmission than silver. [Here Mr. LOWNDES explained, stating that his observations had been applicable to the resolution of the directors of the 30th January, 1817, which only seemed to authorize the advance of post notes at sixty days, when payable at a place other than that at which they were issued.] I am apprized, said Mr. P., of the distinction in this respect, between post notes payable where issued, or at a different place; and that on the latter an additional sum may be required by the bank, equal to the premium on exchange. But I do not concur with the gentleman from South Carolina, in his interpretation of the bank resolution of the 30th January, 1817, nor will I criticise that resolution to find its literal import, for the same bank that made the resolution had, or at least assumed, the right to interpret its own resolution, and, as it appears by the report, did issue post notes payable at the place where issued, and on these post notes did receive

an unjust and unlawful gain. The gentleman has not denied, that the post note of \$20,000, at sixty days, the loan of which is mentioned in the report, was payable at the place where issued. But, suffer me to yield to the gentleman's construction of the bank resolution of 30th January, 1817, that is to say, that it only warranted the issuing of post notes payable at different places than where issued, and mark the consequences. Then, as we know that such notes payable at the place of issuing, were loaned, there was either some other resolution to warrant these loans, or there was not. If there was another resolution to warrant these loans, that other resolution subjects the bank to every criminal imputation that it would have been subjected to in case the resolution of the 30th January, 1817, had authorized the same same unlawful loans. But if there was no other resolution to authorize such loans, yet, as we know the loans were made, the bank incurred a still greater turpitude by resorting to an illicit practice, and adroitly omitting to spread any resolution or distinct account of it, on the journal of its proceedings; hiding the transactions from the Government, which had reserved the right of examining all its transactions. It is possible I have not understood the object of the gentleman from South Carolina, when on this head he referred to the statement of the cashier. That officer deposes, that post notes were directed to be issued, on application, at sixty days, to be paid for out of the proceeds of discounts, if required. This certainly had a reference or at least was applicable to post notes payable at the same place; they were to be paid for out of the proceeds of discounts, which ought to have been ready money to the borrower, and would of course afford unjust gain to the bank, unless it had directed the borrower's note to bear date at the end of the sixty days, when the post note would be equal to cash, which direction the bank never gave.

The honorable member from South Carolina has shown us the 22d and 23d sections of the act of incorporation. By the 22d section, in case the bank did not commence operations by April, 1817, Congress were authorized, within twelve months, to declare the charter void. But this section certainly does not prove that Congress can under no other circumstances repeal the law. It was inserted as a restraint on the bank, and not as a limitation of legislative authority. It was a penalty denounced in *terrorem* to hurry the bank to its duties.

The 22d section designates the event on which Congress may annul the charter, and the 23d section, the circumstances under which the court may annul it by judgment. But if we have shown that, without either of these sections, Congress would have possessed power to repeal the act of incorporation, that power is not impaired by either section; for, if either Government or an individual having a right is entitled to a remedy or certain means of justice and thereafter a law be made conferring a new remedy without saying anything of his previous rights, the Government or individual will have his election to pur-

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sue the old or new remedy, the latter being considered as cumulative. This proposition is sufficiently evident to all professional gentlemen. If, then, it were possible for the Fourteenth Congress to make a law to bind and govern the Fifteenth Congress, yet it has not attempted to do so by the 22d or 23d sections, which the Government may resort to as a cumulative remedy against abuses of charter, or assert the prior and unimpaired power of repealing the law. Ask me why the 22d section was inserted? I answer, to prompt the bank to an early operation. Ask me why the 23d section of the *scire facias* was enacted? I answer, to enable the courts to repeal the charter. But, do you ask, why then a power to repeal was not reserved to Congress? The answer is plain. It was unnecessary to give to Congress a power it already possessed. If this Congress does not possess the power under the Constitution, it cannot derive it from the gift or grant of the Fourteenth Congress. The gentleman from Delaware (Mr. McLANE) opposes our power to repeal the act of incorporation by deductions from the principles of the common law, which he alleges are applicable in construing the charter. Having myself embraced a view of this question which places me in opposition to that gentleman, it is not my province to warn him of the strong force he must contend with here, in supporting his negative proposition on common law principles only. There are many gentlemen on the floor who think with my colleague (Mr. JOHNSON) that there is no common law appending to the Federal Government, on the ground that the common law, being different in different States, is not sufficiently uniform for adoption by the General Government, which, extending itself over all the States, finds no common law commensurate with its surface. Although I disapprove of this doctrine, I shall not discuss it, as it is believed that the gentleman from Delaware and myself entertain the same opinion of the application of the common law; but I cannot avoid the remark of the peculiar applicability of the reasons for negating the common law, to the interpretation of this charter, for, if the extension of any measure of the National Government into several States annuls the force of the common law as to that measure, because the common law being different in the respective States, would be productive of conflicting constructions of the same public measure, how can the common law have any application to this charter, which is made to exist in every State of the Union? If this be so, the gentleman will find himself opposed by all who deny the common law. But the gentleman is incorrect in his common law argument, and therefore ought not to have the support of those who subscribe to the force of that law. He admits that every corporation must be subject to some visitatorial authority, and that Congress is the visitor of this bank, as the King, through the King's Bench, or Parliament, is of civil corporations in England. [Mr. McLANE explained. He had argued that, if Congress had the visitatorial power, it would not follow that it could not de-

stroy the corporation, but he had not admitted that Congress had the visitatorial power, and he doubted whether it could be said to possess it.] I had mistaken the gentleman, continued Mr. P., and accepting his meaning as now explained, his error remains: he contended that the visitatorial authority could only punish or correct abuses of corporations, and could not destroy them; and instanced the King's Bench, which was the visitor of lay corporations, and yet could not destroy them. The King's Bench, however, can, and frequently does, for sufficient cause, destroy as well as correct the corporate bodies. It corrects by *mandamus*, and destroys by *quo warranto*. If, then, Congress has the visitatorial power over the bank, it may, for sufficient cause, repeal the law of incorporation; and that Congress is the visitor, I am convinced, by considerations which I had the honor to submit on Thursday.

The Government of the United States sustains a two-fold capacity in its relations to the bank corporations: first, the Government is a co-partner in trade with the other subscribers, and the owner of 70,000 shares of the capital stock; and, if it stood only in the relation of partner, would be legally as well as morally subject to municipal law equally with the other stockholders. But, secondly, the Government, in its sovereign capacity, cannot be subjected against its will to municipal law; for municipal law is subject to it, and enacted, repealed, or modified, by it. The frequency of forensic debate on the constitutionality of State laws, prepares the minds of gentlemen for the admission of an erroneous principle as regards this Government; for, while the Constitution expressly prohibits any State from the passage of laws impairing the obligation of contracts, it imposes no such inhibition on Congress. Adam Smith, or some other popular writer, informs us that one of the petty sovereigns of Italy entered a partnership with a Jew to keep a wine cellar, and for a division of profits, &c. Had the sovereign refused, on closing the concern, to account according to municipal law, all would exclaim at the injustice, but no one would doubt his power or give the Jew a right to control him by municipal force, which would be in that instance to convert the Jew into the sovereign.

Now, sir, there is something oppressive, something painful, cruel, and almost horrid, in the very idea of a Government being a partner in trade, and at the same time legally exempt from the rules of municipal justice, which usually govern such concerns; nor can you be relieved from this disagreeable idea by seeking to subject sovereignty to the physical and legal force of a municipal law, because it would then cease to be sovereign. Even yet some oppressive wrong seems to haunt the question, or the subject in which the question originates; it is the last. It is wrong, radically wrong in the nature of things, that Government should combine in partnerships of trade with its subjects or citizens, inasmuch as the relations of such concern are controlled by laws, to which the sovereign is not subject. The

Government is a partner in trade, may look to distant and enormous speculations, and in its sovereign capacity enact laws to secure the result of such views, and proving too mighty for all competitors, and having enriched the trading company, finds no power on earth of sufficient ability to enforce justice against it, on a settlement of the partnership. My views on this part of the subject must not be misconstrued. I insist that the legislative power may repeal as well as make all laws, including laws of incorporation. And the objection that such a power is susceptible of abuse or perversion is untenable, for that would operate to show that there was no legal, civil, or political capacities, whether Legislative, Executive, or Judicial, as any of them may be perverted. But, having acquired or derived a legal and proper power or jurisdiction over the subject-matter, I then will meet gentlemen in a concurrence, that we are bound by the precepts of justice and morality in the exercise of our powers and jurisdiction. The imprudence of creating or subscribing to the corporation has no weight with me; for, in the exercise of our legitimate powers, we should not by compulsion, but of choice, be governed by the same rules of justice as individuals. The bank charter, if a contract, was entered into freely on the part of Government; and thereby imposed a moral obligation, to which Government will adhere, while that obligation remains. But, when the conditions of the incorporating law are forfeited, and its fundamentals violated, by the party now demanding a performance, as has been done with respect to this charter, I say the moral obligation has ceased to exist.

Gentlemen speak of our destitution of power to repeal the act, alleging that it is a contract; and yet they are willing to pass a law so to modify the charter as to prevent future abuses; but, if we are yet bound by it as a contract, it cannot be modified by Congress. How can Congress, (if these gentlemen reason correctly,) being but one party, modify its contract without the consent of the other party?

The gentlemen from Delaware and Pennsylvania, (Messrs. McLANE and SERGEANT,) who are both opposed to the resolution before us, seem to concur, and yet conflict most strangely with regard to the same source of argument. The gentleman from Pennsylvania, in answer to my colleague, (Mr. TYLER,) travelled into the history of the ancient English decisions concerning the violation and forfeiture of charters, for the purpose of showing that those decisions were made in evil times, and under the influence of corrupt motives. The gentleman from Delaware, speaking also in opposition to our resolution, produced and read a modern elementary law book, which he affirmed contained correct principles, and supported his position. Yet, sir, the doctrine, with regard to corporations, found in the modern book of my friend from Delaware, and so highly extolled by him, consists of the same identical principles of the old English decisions, condemned as wicked and corrupt by my friend from Pennsyl-

vania. Not only so, but the old reports which are so corrupt and detestable in the eyes of our opponents, are quoted by the modern writer whom they applaud, as the authority on which he advances the very doctrine of corporations on which they seem to rely.

The gentleman from Pennsylvania quotes a number of circumstances in support of his opinion, that the judgment of the King's bench, in the reign of Charles II., which virtually revoked the charter of incorporation of the city of London, was obtained by political intrigue, and to serve the King, who wanted money, and could get it for a new city charter, in case the old one was revoked. I am unwilling and vexed to find such imputations cast on the ancient common law tribunals of our ancestors. Such charges are not proved or probable. But let the decision, and the report of the case, which is now in this House, speak for themselves. The charter empowered the corporation of the city only to make by-laws, rules, &c., for the government of itself, its officers, and its citizens; but the corporation usurped and exercised the power of imposing taxes on all the subjects of England, and indeed on aliens, and all the inhabitants of the world who should visit the city; in truth, the corporation thereby usurped sovereign authority, claiming, and actually enforcing a power which could only be exercised by the King and Parliament. Yet the gentleman from Pennsylvania thinks this circumstance so trivial as to be almost innocent, and is so astonished at the decision of its being a violation of the charter, that he can only account for it by the imputation of intrigue and corruption to the English Government and judges. The gentleman has informed us that King Charles II. wanted and received money for a new charter of incorporation of the city. And did the King receive money for a charter? And was this an evidence of corruption? Let the question be answered. The King received money for a charter! and his conduct in this, it seems, we abominate. Now, sir, you may define, turn, examine, and re-examine this money—this price of the charter—as you please, and you will find it was nothing more or less than a *bonus*—the very thing of which I had the honor to speak when addressing you on Thursday—and only differs from the bonus the speculators of the United States Bank offered and paid to this Government, in this, that this Government agreed to receive a million and an half of dollars as the price of its charter, whereas the King was more moderate, and received a less sum for his charter. Then, the merit or demerit of selling chartered privileges, exists not in the thing itself, but in the personages concerned; thus, it was honorable in this Government to receive a bonus for a charter, but abominable in the English Government to do so.

The gentleman from Pennsylvania insists that no offence of the board of directors, in the management of the bank, can be imputed as a violation of charter, inasmuch as the directors are not the corporation, for the subscribers are the corporation, and that the offence must be by them.

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But how is this? The board of directors are the authorized agents and representatives of the subscribers, and the subscribers, like all other men, are accountable, not only for their own conduct, but for the acts of their agents; hence, by the gentleman's own principles, the board may violate the charter. The board of directors has the sole and exclusive control of the corporation and all its concerns, and if the corporation is not accountable for their actions, there can be no such thing as a violation of charter; the constitution itself could in no shape be reached, and would consequently be superior to all law, and not subject to the Government of the country. Is it possible that the subscribers must receive all the advantages of the management of the board, and abide by none of the disadvantages of that management?

The gentleman from South Carolina apprehends that a dissolution of the bank will involve the Treasury in embarrassments. I acknowledge the Treasury has found its operations in some measure facilitated by the bank; but these aids are not of magnitude, and could be obtained from other sources—for instance, extend to the receiving banks of the States, (and some of them are certainly solvent,) the advantages that have been afforded to the United States Bank, by leaving the public moneys in their vaults, as a capital to deal with, until wanted by the Treasury, which would afford a continual deposit, and would be what is afforded to this bank, and those banks would doubtless agree to pay the moneys in any part of the country; and, as the receiving banks would be in different quarters of the Union, it would not be always necessary for each of them to pay money at the most remote points. Besides this advantage to the National Bank, Government pays it annually \$350,000, the interest on the \$7,000,000 subscribed to it. But this \$350,000 per annum, or part of it, is expected to be refunded in the shape of the Government Bank dividends; and this Government, discarding its own dignity and old-fashioned simplicity, enters the counting-house, and becomes a partner with a company of money changers and speculators, to save a penny to offset against the small wastage of transmitting moneys from place to place within its own limits. Gentlemen treat this important subject as an affair merely between the stockholders and the Treasury, and as if the public were not to complain whilst these other two parties were content. It should, however, be remembered that Congress, having acknowledged its own right to grant bank charters for the public good, granted this charter to a few individuals, with many exclusive privileges, and tied its own hands from granting, or shut the people's mouths from asking any other charter for twenty years, on the ground that this exclusive charter would enable its possessors to afford the country, as well as the Treasury, facilities and comforts to which they had before been strangers. And now, when the people find themselves disappointed, and inquire of their Representatives for the recompense they were to receive for the grant of these ex-

clusive privileges, at the expense of their common rights, they are to be informed that their importunities are idle; that they have no concern with the subject, and that none are to inquire of it but the Treasury Department, and the stockholders, bank directors, brokers, &c.

Mr. BARBOUR, of Virginia, succinctly stated the reasons which would induce him to vote for the resolution to repeal the charter.

Mr. STORRS, of New York, briefly replied to Mr. BARBOUR; when the Committee rose, and the House adjourned.

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WEDNESDAY, February 24.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to which was referred the bill from the Senate, entitled "An act to increase the compensation of the surveyor of the port of Patuxent, in Rhode Island," reported the same without amendment; and the bill was ordered to lie on the table.

Mr. POINDEXTER, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana," reported the same with an amendment; which was read, agreed to, and ordered to be engrossed, and the bill read a third time to-morrow.

Mr. POINDEXTER, from the same committee, to whom was also referred the bill from the Senate, entitled "An act respecting the location of certain sections of land to be granted for the seat of government in the State of Indiana," reported the same without amendment; and the bill was ordered to be read a third time to-morrow.

Mr. PLEASANTS, from the Committee on Naval Affairs, to which was referred the bill from the Senate, entitled "An act authorizing the purchase of live-oak timber for naval purposes," reported the same without amendment; and it was committed to the Committee of the Whole, to which is committed the bill authorizing the purchase of live-oak timber for building small vessels of war.

The Committee of the Whole, to which is committed the bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages, were discharged, and the bill was laid on the table.

On motion of Mr. TRIMBLE, the President of the United States was requested to cause to be laid before this House, at the next session of Congress, any information which may be in his power, touching the causes of the imprisonment of — White, an American citizen, at Buenos Ayres.

Bills from the Senate of the following titles, to wit: An act for the relief of Jacob Purkill; An act to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the Post Office Establishment;" and, An act respecting the transportation of persons of color, for sale or to be held

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to labor, were severally read twice, and referred; the first, to the Committee of Claims; the second, to the Committee on the Post Office and Post Roads; and the third, to the Committee on the Judiciary.

An engrossed bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy," was read the third time, and passed.

A message from the Senate informed the House that they have passed the bill of this House, entitled "An act making appropriations for the support of Government for the year 1819," with amendments. They have also passed bills and a resolution of the following titles, to wit: An act providing for the better organization of the Treasury Department; An act in addition to "An act concerning tonnage and discriminating duties in certain cases;" An act to protect the commerce of the United States, and to punish the crime of piracy; and, a resolution requesting the President of the United States to employ an artist to ascertain the latitude of 36 degrees 30 minutes north, on the west bank of Tennessee river; in which amendments, bills and resolution, they ask the concurrence of this House.

#### LONGITUDE OF THE CAPITOL.

Mr. H. NELSON, from the committee to whom was referred, on the 23d November last, the memorial of William Lambert, made a report, accompanied with a joint resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe; which said resolution was read twice, and ordered to be engrossed and read a third time to-morrow.

The report is as follows:

That the subject of a first meridian for the United States was presented by the memorialist to the consideration of Congress in the month of December, 1809, on which a select committee of this House made a report on the 28th of March, 1810. The memorial and other papers relating to it were afterwards referred to the Secretary of State, who also reported favorably thereon, but no decision of Congress had yet been had. In the present case, the committee have attentively examined the subject; and, to enable them more fully to satisfy themselves of the accuracy of the calculations, they have made application to, and received the opinions in writing of, scientific gentlemen, in different parts of the United States, which accompany this report. It rests with Congress to determine on the utility of establishing a first meridian, in conformity to the practice of most, if not all, of the commercial nations of Europe, which appear to have considered the object of sufficient importance not only to authorize observatories to be erected, and furnished with suitable instruments and other apparatus, at the Seats of Government, or some other convenient places within their respective dominions, but as an appendage of sovereignty, which they are not disposed to relinquish.

The committee believe that if a general meridian could be fixed, by the consent of all Powers materially interested in the pursuits of commerce and navigation, it would be attended with advantages which the establishment of many meridians would not afford.

But this desirable coincidence in opinion and practice is not within our control, and probably never will take place.

Your committee are therefore of opinion that it would tend to the promotion of science and national credit to fix a first meridian for the United States somewhere within their territories; and as the Capitol was originally contemplated by the plan of the City of Washington for that purpose, it may be proper to select it, or some convenient place in its vicinity.

The committee will not take upon themselves to recommend that an observatory be erected, but they deem it advisable to comply so far with the request of the memorialist as to submit to the House the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be requested to cause such number of astronomical observations to be made, by methods which may in his judgment be best adapted to insure a correct determination of the longitude of the Capitol, in the City of Washington, from Greenwich or some other known meridian in Europe; and that the data, with accurate calculations, or statements founded thereon, be laid before Congress at their next session.

#### BANK OF THE UNITED STATES.

The House having again resolved itself into a Committee of the Whole, on the subject of the Bank of the United States—

Mr. SPENCER rose and spoke more than four hours in defence of the report of the Bank Committee.

Mr. WALKER, of Kentucky, addressed the Chair as follows: Mr. Chairman, like my friend from Virginia, last up upon this question, I merely want to give briefly my reasons for my vote. I have heard much said about the correct and incorrect management of the bank, and of the expediency and in expediency of its measures; but, sir, upon all occasions of this nature my inquiries are directed to the constitutionality or unconstitutionality of the institution—of its moral or immoral tendency. And, sir, I do think that the President and Directors of the United States Bank deserve my thanks, not for their correct management of the public funds; no, sir, but for their prompt and decisive manner of giving to their country, at one view, almost their tether's length of venality and corruption, to which their measures must inevitably tend, and thereby enabling me decisively to determine the side I ought to take upon the question now before us. I can no longer doubt that the United States Bank is an engine of favoritism—of stock-jobbing—of creating and attaching additional consequence to cash, already too powerful—of depressing merit, and giving to money virtue's true reward; and, what I hate, if possible, worse than that, of coupling the destiny of this fair Republic to a detested monarchy—of binding in adamant chains the blessed, innocent lambs of America to accursed, corrupt European tigers. Yes, sir, the president and directors of the Bank of the United States have convinced me that all banking systems have a direct tendency to de-

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press the indigent and necessitous, and add to wealth affluence—to affluence, power and domination; and this tendency, being in direct hostility to the principles of equality, and in support of those principles we know that the bland bosom of the land of our fathers has been bathed in our fathers' blood. You know, sir, that our fathers—nay, some of us, have fought and bled to make our country free, and permanently establish the principles of impartial equality. With this view of the subject how can I hesitate?

Much, to be sure, has been said about commerce. Is commerce to be seriously affected by a revocation of the charter? If so, I am sorry for it. Fair and honorable commerce is useful to the nation. But, sir, shall we refrain from the curtailment of a commerce which is well known to press hard upon the sacred plant of liberty? What said our fathers, in our Revolutionary war, of the comparative value of wealth to equality? I remember to have heard the fathers of three honorable Virginia gentlemen, now of this House, when advised by what is called a prudent, cautious, mercantile man, not to lavish their ample fortunes on the American contest, unhesitatingly reply: If the expenditure of all my fortune will be instrumental to the liberty of my country, thankfully shall it go, and then I shall leave my children an inheritance more truly valuable than all the wealth of Chili, Mexico, and Peru; and such were the sentiments of the patriots of that day. Oh, Nelson!\* never will this poor old soldier forget thy benevolence: that very coat thy patriotic charity bestowed, he had on his knapsack-galled back when the good Marquis de Lafayette† thus accosted him: "My little soldier, had you ever the small pox?" He said, "No." The Marquis said, "You are then unfit for the purpose I wanted you for." The soldier replied, "The small-pox cannot hurt me when executing the orders of my General." I will not tell what the Marquis said upon that occasion; but I will most positively assert that I would not take (old as I am, and as many children as I have) one hundred shares in the United States Bank for it. I hope this honorable Committee will not take my mention of this little matter as an evidence of my vanity; for I really intended it as an apology to the cool, dispassionate, calculating gentlemen on the other side of the question, for my unwillingness to exchange the sentiments of Henry for the feelings of Hook,‡ or even Jamy Cowan.

\* General Thomas Nelson, of Yorktown, Virginia, sacrificed a large fortune in furnishing soldiers with equipments necessary for their active service.

† The Marquis de Lafayette, when following the British army from Richmond, Virginia, to York, encamped some days in Massay's old field, with expectation that the enemy might give him battle. He there requested General Robert Lawson to send him an officer to execute a secret order. Upon that occasion the conversation passed between the young soldier and his General. The small-pox was in Richmond.

‡ See Wirt's Life of Patrick Henry. Hook, a tory, brought suit against Venable, for impressing beef. Cowan his attorney; Henry for defendant.

I never shall forget the feelings I had when a poor, unprotected orphan boy; and, therefore, hope the vote that we may give upon this occasion may keep the patriot soldier's son from wishing his gallant father had been a tape-seller, or a stock-jobber, instead of a meritorious soldier. We cannot stop this overwhelming influence of money. Captain Henry, who got \$50,000 for betraying his master's secrets, will stand as high in public estimation as Thomas Nelson, or old Benjamin Harrison,\* who spent, each of them, at least \$50,000 in their country's cause, without a hope of remuneration.

I will now say a little to my Virginia friends about State rights. It was but the other day that the whole country, from the extreme south line of Pennsylvania to the Ohio river, down that river to its mouth, up the Mississippi to its head, and all the country south and west of those boundaries, was in a blaze, about the destiny of negroes that may be hereafter born. And why? Because the South and West members thought, and I think rightfully, too—indeed I know it—that the East and North members were infringing on their State rights, and wished to legislate upon property exclusively belonging to the South and West. Where is now fled our flaming zeal for sacred State rights? It cannot be smothered in bank paper. Here is a proper occasion to bring it forth. What are we about to do this day? Can we say our State rights are not endangered by the United States Bank? Have we not got reasons to believe, from the known complexion of a majority of the members of the United States Supreme Court, that that court will determine that the United States Bank have a right to extend her branches over every individual State in the Union, and that the States have no right to prune them? This fact I do know, that, if an unwelcome guest was palmed upon me, I should think my individual rights a little trespassed upon if I could not at least charge him for his accommodation. When we were borrowing money from old England to put our mammoth bank in motion, strange to me that we did not think of the condition of the thousands of poor, miserable British slaves, who, long before this, would have broke their chains had they not have been riveted by the baneful influence of the banks. I wished to have said more upon this subject; but, knowing that in historical and bank knowledge I am far beneath those gentlemen who have gone before me, or may follow after, I shall submissively decline all further observations.

The question was then taken on the resolution offered by Mr. JOHNSON, of Virginia, as follows:

"Resolved, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' passed April 10, 1816."

And decided in the negative—yeas 23.

After the proposition to repeal the charter had

\* Governor Harrison spent an ample fortune in the cause.

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passed in the negative, the Chair announced the *scire facias* as the next subject in order before the Committee.

Mr. TRIMBLE said that he had only risen to ask the question to be taken. As he had offered this resolution directing a *scire facias* to issue, it was, perhaps, a duty which he owed to himself to explain his views and discuss the whole subject at large. He was prepared, he said, to do so, but at this late day of the session, and late hour of the day, it would be unpardonable in him to intrude himself upon their patience; more especially, too, when it is manifest that the House is anxious to get forward, and despatch business in relation to public service which could not be permitted.

This, he said, was the first time it had become his duty to vote upon the banking power, and, as the constitutional question is involved in the propositions, he ought, in justice to himself, state distinctly the opinion which would govern his vote, and for that purpose only, he would crave from the Committee a momentary indulgence.

He had just voted, he said, to repeal the charter, because it was his fixed and settled opinion that there was no power in the Constitution under which Congress could create the corporation. The distinction between express and implied powers was well understood, and the principles used as auxiliaries to assist in expounding the instrument had been agreed on all sides. He had searched, he said, in vain for an express banking power in the Constitution. It was not to be found. Many explorers had preceded him in quest of that power, but no one had returned with the discovery. The express powers are well defined, and yet, doubts had arisen as to the extent of some of them. For instance, it is declared in the Constitution that "Congress shall have power to establish post offices and post roads," and yet it is contended that Congress has no power to construct a post road. Now, if it was in like manner declared that Congress shall have power to establish banks and banking houses, no one would be hardy enough to contest the existence of the banking power; and conversely, if doubts may fairly arise upon the post road power, under the clause recited, the same principles and course of reasoning which start the doubt will lead to the inevitable conclusion that the banking power does not exist. In his opinion, the power to construct post roads was clearly and expressly given, and it was equally clear to him that the banking power is not expressly granted. Was it to be found among the implied powers—that is to say, implied powers, necessary and proper to carry express powers into full effect and operation? He had pondered, he said, upon this subject not a little. He had attempted again and again to locate this implied banking power upon some one of the express powers; he had put in requisition all the auxiliary principles usually employed in expounding the Constitution, and had passed a strict and rigid inquest upon all its sections, and had been totally unable to find any section, clause, or article, upon which he could anchor this banking power.

He had finally concluded that it was not to be found in the family of implied powers, and under that conclusion he had just voted to revoke the charter, and would now vote for the resolution to order a *scire facias*. Laboring, as he did, under those convictions, it was impossible for him to vote in favor of the bank; and therefore, it was unnecessary for him to make up or express any opinion upon the questions of forfeiture. He had no doubt of the power of Congress to repeal an unconstitutional law, and he believed this to be such a law. The object he had in view would be attained if the Supreme Court should decree a forfeiture and dissolve the corporation.

He did not intend, he said, to delay the Committee one moment to hear remarks from him upon the various points which had been debated. The States, the Union itself, might be considered a corporation, and it is manifest that the great interests of the community are paramount to all banking interests. Banks are a kind of labor-saving machines that should cease to exist the moment they cease to be useful. How far the United States Bank has performed the great objects and purposes which have been assigned to it, is known to all of us; how far it will be able to perform them in future, time will determine. If it shall fail in attaining its objects, and that failure shall be traced to the mismanagement of the directors, there will always exist a disposition to correct abuses and restore confidence; but if the bank itself has been incurably crippled and maimed, the sooner it is voted out of the country the better. It was created to assist the fiscal operations of the Treasury, and to restore specie payments. The gentleman from South Carolina says that it has effected these objects—and so it has. But it is under an engagement with the public to continue those services to the end of the charter; and a promise had been given that it would equalize exchange and check the issues of local paper. Can it do this? Has it retained the ability to meet the public expectation? If it has not, will its disability originate in its waiver of the second instalment? Will it languish for years as the Bank of England did, because it pretermitted the specie payment of the second quota of stock? Is it a salvo for all the evils of excessive banking, or will it only protract the crises to make the agony more painful? Here several questions cast up for discussion, and succeed each other, embracing a variety of facts and calculations, and opening a wide field of inquiry. If he had found a favorable moment to claim the floor, he would have made an effort to present the subject in new aspects and relations. He would have felt some pleasure in doing so, but he would not forfeit his claims to the indulgence of the Committee by surprising them into a renewal of the debate; and, therefore, would only intimate his conviction that, unless the directors of the bank shall make a radical change in the administration of its concerns, we shall meet here next session under a derangement and depreciation of the paper currency heretofore unknown in this Union. He hoped he might be mistaken, but his predic-



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tion was founded on facts, and the results of long experience.

The question was then put on the resolution offered by Mr. TRIMBLE, to issue a *scire facias*, and decided in the negative—ayes 28.

The resolutions offered by Mr. SPENCER, and also referred to this Committee, were withdrawn by him; and

The Committee took up the bill reported by the bank committee, to enforce the act of incorporation by prohibiting the pretended distribution of shares for the purposes of undue influence in the elections of directors.

Mr. SPENCER proposed various amendments, intended to render the provisions of the bill more effectual; all of which were agreed to.

Mr. BASSETT then moved two amendments; the first, substantially, to compel the bank to redeem all its notes with specie, at whatever branch they might be presented for payment. The object of the second amendment was to prohibit any director of the bank, while acting as such, from dealing in the stock of the bank. Both propositions were negatived by very large majorities; and the Committee of the Whole then rose, and reported their proceedings to the House; and the House adjourned.

#### THURSDAY, February 25.

Mr. POINDEXTER, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act making further provisions for the sale of the public lands," reported the same with an amendment, and the bill was laid on the table.

*Ordered*, That the Committee on the Public Lands be discharged from the further consideration of the petitions, memorials, and other subjects to them referred at the present session, upon which they have not acted, and that the same be laid on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of the House, of the 22d instant, requiring information whether any, and, if any, what part of the balances from the State banks, to the Bank of the United States, under the second article of the compact between them, for which balances the Bank of the United States was to receive interest, were retained by the Bank of the United States as special deposits; which letter was ordered to lie on the table.

The SPEAKER also laid before the House another letter from the Secretary of the Treasury, in answer to another resolution of the 22d instant, requiring information whether any, and, if any, what part of the balances transferred from the Treasury, to the Bank of the United States, under the second proposition of its agreement with the receiving banks, of the 31st of January, 1817, were drawn from the Bank of the United States, by any department of Government, between the 31st January and 1st July, 1817, exclusive of the sums required by the Treasury, under the exception contained in the second proposition; which

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letter was read, and also ordered to lie on the table.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, to which was referred the bill from the Senate, entitled "An act to repeal part of an act passed on the 27th day of February, 1813, entitled 'An act in addition to an act regulating the Post Office Establishment,'" reported the same without amendment; and the bill was ordered to be read a third time to-morrow.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which were referred bills from the Senate of the following titles, to wit: An act for the relief of Samuel Ward, and An act for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased, reported the said bills without amendment, and they were respectively committed to a Committee of the Whole to-morrow.

The amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government, for the year 1819," were read and referred to the Committee of Ways and Means.

Bills from the Senate of the following titles, to wit: An act providing for the better organization of the Treasury Department; An act in addition to "An act concerning tonnage and discriminating duties in certain cases;" An act to protect the commerce of the United States, and punish the crime of piracy; and, An act to continue in force for a further term the act, entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes," were severally read twice, and referred; the first and second, to the Committee of Ways and Means; the third, to the Committee on the Judiciary; and the fourth, to the Committee on Indian Affairs.

The resolution from the Senate, "requesting the President to employ an artist to ascertain the latitude of 36 degrees 30 minutes north, on the west bank of the Tennessee river," was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act to designate the boundaries of districts and establish land offices, for the disposal of the public lands, not heretofore offered for sale, in the States of Ohio and Indiana," was read a third time, as amended; and being on its passage, Mr. STROTHER moved that the said bill be laid upon the table; which motion was rejected; and the question being taken, Shall the said bill pass? it passed in the affirmative.

The bill from the Senate, entitled "An act respecting the location of certain lands to be granted for the seat of government in the State of Indiana," was also read the third time, and passed.

An engrossed "Resolution requesting the President of the United States to cause astronomical observations to be made to ascertain the longitude of the Capitol in the City of Washington, from some known meridian in Europe," was read the third time, and passed.

The bill to diminish the duty on certain wines,

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and to declare free of duty books printed in foreign languages, was taken up, amended, and ordered to a third reading.

The House went into Committee, on the bill making appropriations for the Public Buildings. Various amendments were made to the bill; and it was finally reported to the House, filled up as follows:

For erecting the centre building of the Capitol, \$136,644.

For finishing the gates, the iron railing, and the enclosure north of the President's House, \$5,344.

For enlarging the offices west of the President's House, \$8,137.

For purchasing a lot of land, and for constructing pipes, for supplying the Executive Offices and President's House with water, \$9,125.

Thus amended, the bill was ordered to be engrossed and read a third time.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act for the relief of Francis B. Languille; an act for the relief of Lewis H. Guerlain; an act for the relief of Rosalie P. Deslande; an act for the relief of Joseph McNeil; an act for the relief of Eli Hart; an act for the relief of Nathan G. Birdseye and Daniel Booth; an act for the relief of John Rodriguez; an act for the relief of Joseph Dozet and Antoine Bourgoud; and an act to regulate and fix the salaries and compensation of the registers and receivers of public moneys in the land offices; in which bills they ask the concurrence of this House.

#### BANK OF THE UNITED STATES.

The House took up and proceeded to consider the report of the Committee of the Whole on the state of the Union, made yesterday, on several subjects referred to it in relation to the Bank of the United States; when,

Mr. SPENCER withdrew his motion to lay the said report upon the table.

The question was then taken to concur with the Committee of the Whole in their disagreement to the resolution submitted by Mr. JOHNSON, of Virginia, in the following words, to wit:

*"Resolved, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' approved April 10, 1816."*

And passed in the affirmative—yeas 121, nays 30, as follows:

YEAS—Messrs. Abbott, Adams, Allen, Anderson of Kentucky, Bateman, Bayley, Beecher, Bennett, Bloomfield, Boss, Bryan, Butler of Louisiana, Campbell, Clagett, Cobb, Colston, Comstock, Crafts, Cruger, Cushman, Darlington, Davidson, Earle, Ervin of S. C., Fisher, Folger, Fuller, Gage, Gilbert, Hale, Herkimer, Hitchcock, Holmes, Hopkinson, Hubbard, Hunter, Huntington, Jones, Kinsey, Kirtland, Lawyer, Lewis, Linn, Little, Livermore, Lowndes, McLane of Delaware, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Samuel Moore, Morton, Moseley, Murray, J. Nelson, H. Nelson, New, Newton, Orr, Owen, Parrott, Pawling, Peter, Pitkin, Pleasants, Poindexter, Porter,

Quarles, Reed of Maryland, Reed of Georgia, Rhea, Rice, Rich, Ringgold, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, B. Smith, Alexander Smyth, J. S. Smith, Southard, Speed, Spencer, Storrs, Strother, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, White-side, Whitman, Wilkin, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Allen of Massachusetts, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Blount, Boden, Burwell, Desha, Garnett, Hall of N. C., Harrison, Hendricks, Herrick, Hogg, Hostetter, Johnson of Virginia, McLean of Illinois, Marchand, Robert Moore, T. M. Nelson, Patterson, Pegram, Pindall, Seybert, Trimble, Walker of Kentucky, and Williams, of New York.

The question was then taken, also, to concur with the Committee of the Whole, in their disagreement to the resolution submitted by Mr. TRIMBLE, in the following words, to wit:

*"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General of the United States, in conjunction with the District Attorney of the State of Pennsylvania, shall immediately cause a scire facias to be issued, according to the 23d section of the 'Act to incorporate the subscribers to the Bank of the United States,' calling on the corporation created by the said act to show cause wherefore the charter thereby granted shall not be declared forfeited; and that it shall be the duty of the said officers to cause such proceedings to be had in the premises as shall be necessary to obtain a final judgment thereon; for the expenses of which Congress will hereafter provide."*

And passed in the affirmative—yeas 116, nays 39, as follows:

YEAS—Messrs. Abbot, Adams, Allen, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bateman, Bayley, Bennett, Bloomfield, Boss, Bryan, Clagett, Cobb, Colston, Comstock, Crafts, Cruger, Cushman, Darlington, Davidson, Earle, Edwards, Fisher, Folger, Fuller, Gage, Garnett, Gilbert, Hale, Herkimer, Holmes, Hopkinson, Hubbard, Hunter, Huntington, Jones, Kinsey, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, Lowndes, McLane of Del., W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Middleton, Mills, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, H. Nelson, Newton, Ogden, Orr, Owen, Parrott, Pawling, Peter, Pitkin, Pleasants, Poindexter, Porter, Quarles, Reed of Maryland, Reed of Georgia, Rice, Rich, Ringgold, Robertson, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Southard, Storrs, Strother, Stuart of Maryland, Tallmadge, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Upham, Walker of North Carolina, Wallace, Wendover, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Blount, Boden, Burwell, Butler of Louisiana, Campbell, Desha, Ervin of South Carolina, Floyd, Hall of North Carolina, Harrison,

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Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Johnson of Virginia, McLean of Illinois, Marchand, Marr, Robert Moore, T. M. Nelson, Patterson, Pegram, Pindall, Rhea, Rogers, Speed, Spencer, Tarr, Trimble, Tyler, Walker of Kentucky, Williams of New York, and Williams of North Carolina.

So the House concurred with the Committee of the Whole in rejecting both resolutions.

The House then took up the amendments reported by the committee to the bill "to enforce those provisions of the act to incorporate the subscribers to the Bank of the United States, which relate to the right of voting for directors."

Mr. STORRS moved that the said bill and amendments lie on the table; which was rejected.

And a motion was made by Mr. PINDALL to refer the said bill to the Committee on the Judiciary, with instructions to amend the same by additional sections:

*First*, To prohibit the offence of usury, and to declare the punishment thereof, when committed by the Bank of the United States or its branches, or by the directors, officers, or agents thereof, whilst employed for, or on behalf of the bank, and to prescribe the mode of prosecution for such offence.

*Secondly*, To prohibit the establishment or continuance by the said bank, of any office of discount or deposit, in any State, after the first day of February, in the year 1820, unless by the consent of the Legislature of such State.

The question being stated to agree to the reference of the said bill with the instructions above,

Mr. HARRISON moved that the bill be postponed indefinitely; which was rejected.

And the question was taken to agree to the motion submitted by Mr. PINDALL; and determined in the negative.

The question then recurred on the first amendment of the Committee of the Whole; to which Mr. SPENCER moved an amendment; when,

Mr. BALDWIN moved that the said bill be postponed indefinitely; which was again rejected; and the amendment moved by Mr. SPENCER was agreed to.

The first amendment to the said bill being further amended, was agreed to as amended; and the residue of the amendments reported by the Committee of the Whole were also agreed to with amendments.

A motion was made by Mr. STORRS further to amend the said bill, by striking out from the first section thereof these words: "and that, in voting at this election, I shall not in any manner violate the first fundamental article of the 'Act to incorporate the subscribers to the Bank of the United States.'" This motion was rejected; when,

Mr. TERRY moved to amend the first section by striking out these words: "that I have no interest, directly or indirectly, in the shares upon which I shall vote in this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly and in good faith, owned by the persons in whose names they now stand; and that in voting at this

election, I shall not in any manner violate the first fundamental article of the 'Act to incorporate the subscribers to the Bank of the United States,'" and in lieu thereof, to insert: "that I have not transferred, nor procured to be transferred, the shares upon which I shall vote at this election as attorney for others, to the persons in whose names such shares now stand, nor were the same subscribed in the name of such persons, for the purpose or with the intent to increase the number of votes which I am entitled by law to give; according to my best knowledge and belief, such persons are, *bona fide*, owners of such shares, or have an interest therein."

Mr. HARRISON again moved that the said bill be postponed indefinitely; which motion was again rejected.

And the question was then taken, to agree to the amendment proposed by Mr. TERRY; and determined in the negative.

A motion was then made by Mr. JOHNSON, of Virginia, further to amend the said bill, by adding thereto the following, as the fourth section thereof:

SEC. 4. *And be it further enacted*, That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present, or reward, or any promise, contract, obligation, or security, for the payment or delivery of any money, present, or reward, or anything to obtain or procure the opinion, vote, or interest of the President of the Bank of the United States, or either of the Directors thereof, or the president or a director of either of the branches of the said bank, in any election, question, matter, or thing, which shall come before the said president and directors for decision, in relation to the interest and management of the said bank, and shall be thereof convicted, such person or persons, so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe, as aforesaid, and the president or director who shall in anywise accept or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court, and shall be forever disqualified to hold any office of trust or profit under the said corporation, and shall also forever be disqualified to hold any office of honor, trust, or profit, under the United States.

And the question being taken to agree to the said section, it passed in the affirmative—yeas 98, nays 26, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Barbour of Virginia, Bassett, Bayley, Beecher, Bennett, Bloomfield, Blount, Boss, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Crawford, Cruger, Davidson, Desha, Garnett, Gilbert, Hale, Hall of North Carolina, Harrison, Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Irving of New York, Johnson of Virginia, Jones, Kinsey, Lawyer, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, W. P. Maclay, McCoy, Mercer, Merrill, Mills, Samuel Moore, Moseley, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Newton, Orr, Patterson, Pegram, Peter, Pindall, Pitkin, Porter, Reed of Maryland, Reed of Georgia, Rhea, Rich, Richards, Ringgold, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Settle, Seybert, Shaw, Slocumb, S. Smith, Alexander Smyth, Speed, Spencer, Storrs, Strother, Stuart of Maryland, Tarr,

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Taylor, Terrell, Tompkins, Townsend, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wendover, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

**YAYS**—Messrs. Abbot, Adams, Baldwin, Clagett, Colston, Crafts, Darlington, Folger, Holmes, Hopkinson, Hubbard, Huntington, Kirtland, W. Maclay, Mason of Massachusetts, Morton, Ogden, Palmer, Pawling, Poindexter, Rice, Southard, Terry, Wallace, Whitman, and Wilkin.

A motion was made by Mr. POINDEXTER to add to the said bill the following, viz :

“That this act shall commence and be in force when the same shall have been assented to by a majority of the stockholders of the Bank of the United States.”

Which motion was rejected.

And the question was then taken, Shall the said bill be engrossed and read a third time ? and passed in the affirmative—yeas 98, nays 38, as follows :

**YAYS**—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Bateman, Bayley, Beecher, Bennett, Bloomfield, Blount, Bryan, Burwell, Campbell, Cobb, Colston, Crawford, Cruger, Davidson, Desha, Fisher, Floyd, Gilbert, Hale, Hall of North Carolina, Harrison, Hogg, Holmes, Hostetter, Hubbard, Irving of New York, Jones, Kinsey, Lawyer, Lewis, Linn, Little, Livermore, Lowndes, McLane of Del., McLean of Illinois, W. P. Maclay, McCoy, Middleton, Mills, Samuel Moore, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Newton, Orr, Owen, Palmer, Patterson, Pegram, Peter, Pindall, Pitkin, Reed of Md., Reed of Georgia, Rhea, Rich, Richards, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Settle, Seybert, Shaw, Simkins, Slocumb, Alex. Smyth, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Stuart of Maryland, Tallmadge, Tarr, Taylor, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

**NAYS**—Messrs. Barbour of Virginia, Bassett, Boss, Butler of Louisiana, Clagett, Crafts, Darlington, Folger, Garnett, Hendricks, Hitchcock, Hopkinson, Huntington, Johnson of Virginia, Kirtland, W. Maclay, Mason of Massachusetts, Mason of Rhode Island, Mercer, Morton, Moseley, Ogden, Parrott, Pawling, Poindexter, Rice, Ringgold, Schuyler, Sergeant, Sherwood, Silsbee, S. Smith, Southard, Strother, Terrell, Terry, Westerlo, and Williams of Connecticut.

The bill was then ordered to be read a third time to-morrow.

FRIDAY, February 26.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred bills of the Senate, of the following titles, to wit : “An act to protect the commerce of the United States and punish the crime of piracy ;” and “An act respecting the transportation of persons of color, for sale, or to be held to labor,” reported the same without amendment. The former of the said bills, was ordered to be read a third time to-day, and the latter to lie on the table.

Mr. RICH, from the Committee of Claims, to which was referred the bill from the Senate, entitled “An act for the relief of Gabriel Godfrey,” made a report recommending that the said bill be rejected. The bill was ordered to lie on the table.

Mr. RICH, from the same committee, to which was also referred the bill from the Senate, entitled “An act for the relief of Nathan Ford,” reported the same with amendments, and the bill was committed to a Committee of the Whole to-morrow.

Mr. PLEASANTS, from the Committee on Naval Affairs, made an unfavorable report on the petition of James Warren, an officer in the naval service of the Revolutionary war ; which was read and ordered to lie on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the bill from the Senate, entitled “An act providing for the better organization of the Treasury Department,” reported the same without amendment, and the bill was committed to a Committee of the Whole to-morrow.

Mr. SMITH, from the same committee, also reported the bill from the Senate, entitled “An act in addition to an act concerning tonnage and discriminating duties,” without amendment, and the bill was laid on the table.

On motion of Mr. SPENCER, the Committee of the Whole on the state of the Union was discharged from the further consideration of the resolutions submitted by him on the subject of the Bank of the United States, and the resolutions were ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the amendments of the Senate to the general appropriation bill for 1819.

These amendments, with one exception, were concurred in, after a long discussion, and reported to the House.

The House went into Committee of the Whole, Mr. WILKIN in the chair, on the bill to alter and establish certain post roads, and spent much time in disposing of the numerous amendments offered, as is usually the case, to this bill.

Before the bill was gone through, Mr. HUGH NELSON took occasion to express his disapprobation of the unlimited and unrestricted admission of propositions for post roads, to an extent which the whole Treasury of the nation would be unable to pay the expenses of, &c.

The Committee having risen and reported the bill, all the amendments were agreed to, with the exception of that which authorized a post route from Fort Wayne to Chicago, which was disagreed to ; and the bill was then ordered to be engrossed for a third reading.

Mr. SOUTHARD, from the Committee on Indian Affairs, to which was referred the bill from the Senate, entitled “An act to enforce for a further term the act, entitled ‘An act for establishing trading-houses with the Indian tribes, and for other purposes,’” reported the same without amendment, and the bill was ordered to be read a third time to-day.

FEBRUARY, 1819.

*Military Academy—Public Printing.*

H. OF R.

Mr. POINDEXTER submitted the following resolution, which was read, and ordered to lie on the table:

*Resolved*, That a committee be appointed to inquire into the expediency of providing for the establishment of a provisional government in the Territory of Florida, ceded to the United States by the late treaty with Spain, and that the said committee have leave to report by bill or otherwise.

On motion of Mr. ROBERT MOORE,  
*Resolved*, That the Secretary of the Navy be instructed to inquire whether, in his opinion, the public service will require any, and what, aid from the United States, for removing the obstructions occasioned by the sand bar at the entrance of the harbor of Presque Isle, on Lake Erie, in the State of Pennsylvania, and make report at the next session of Congress.

On motion of Mr. HUGH NELSON,  
*Resolved*, That the Committee on Accounts be authorized and directed to make the same allowance for extra service to each person serving this House as was granted at the end of the last session.

Mr. ROBERT MOORE submitted the following resolution:

*Resolved*, That the Secretary of War be instructed to inquire whether the public interests of the United States will be promoted by subscribing for — shares of stock in the turnpike road leading from the city of Pittsburg to the town of Waterford, in the State of Pennsylvania, and make report thereon at the next session of Congress.

The said resolution was read, and the question being taken to agree thereto, it was determined in the negative.

Bills from the Senate of the following titles, to wit: An act for the relief of Francis B. Languille; an act for the relief of Lewis H. Guérin; an act for the relief of Rosalie P. Deslande; an act for the relief of Joseph McNeil; an act for the relief of Eli Hart; an act for the relief of John Rodriguez; an act for the relief of Joseph Dozet and Antoine Bourgoud; an act for the relief of Nathan G. Birdseye and Daniel Booth; and an act to regulate and fix the salaries and compensation of the registers and receivers of public moneys of the land offices, were severally read the first and second time, and referred—the first, second, third, fourth, fifth, sixth, and seventh to the Committee of Claims; the eighth to the Committee on the Judiciary, and the ninth to the Committee on the Public Lands.

Bills from the Senate of the following titles, to wit: An act to continue in force for a further term the act, entitled "An act for establishing trading-houses with the Indians, and for other purposes;" an act to protect the commerce of the United States, and punish the crime of piracy; and an act to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the post office establishment," were severally read the third time, and passed.

An engrossed bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages, was read the third time, and passed.

*Ordered*, That the title be, "An act to reduce the duties on certain wines."

An engrossed bill, entitled "An act making appropriations for the public buildings, for the purchase of a lot of land, and for furnishing a supply of water for the use of certain public buildings," was read the third time, and passed.

#### MILITARY ACADEMY.

Mr. RICH, having obtained the floor, remarked that he rose for the purpose of submitting a motion, the object of which was to call upon the Secretary of War for information, to be communicated at the next session of Congress, in relation to the Military Academy. He said he had been induced to submit the motion from a belief that, either in the organization of the government of the Academy, or in the administration of it, there were some defects; and from a further belief that Congress were not possessed of the information necessary to enable it to judge whether the country received a fair equivalent for the large expenditures which were annually made upon that institution. He then submitted the following resolutions, which were adopted:

*Resolved*, That the Secretary of War be instructed to report to this House, at an early period of the next session of Congress, a copy of such rules and regulations as shall have been adopted for the government of the Military Academy; together with a list of the cadets which were attached to the academy on the first day of January, 1815, and of such as shall have been appointed between the said 1st of January and 30th September, 1819; exhibiting the date of their several appointments, with the States and Territories from whence they came; a list of such as shall have resigned or shall have been dismissed, and at what period; also, a list of such as shall have been commissioned in the army, with the date of their commissions, and of such as shall have resigned, with the date of their resignations.

*Resolved, also*, That the said Secretary be instructed to report as aforesaid, whether any, and, if any, what legislative provisions are necessary for the more convenient organization and government of the said academy, the better to insure a strict obedience to all proper orders, and a suitable respect for all the rights of those whose duty it may be to yield obedience.

#### PUBLIC PRINTING.

The House took up and proceeded to consider the report of the Joint Committee on the subject of the public printing. The said report was read, in which is contained the following proposition:

"III. Under all circumstances, the committee have deemed it their duty to recommend that a tariff of prices for every kind of printing required to be done for Congress, be fixed by a joint resolution of the two Houses, to continue in force for two years; and that before the close of the present session, each House make choice, by ballot, of a printer, to execute its own work during the next Congress. The prices should be adequate to the employment of sufficient capital and workmen to perform the work expeditiously, and to insure such care and attention as shall give it such a degree of accuracy and elegance as shall not dishonor the literature and typography of the country. With former contracts before us, and with the professional

knowledge which may be called in aid, no difficulty would occur in forming the tariff alluded to, on principles at once liberal to the printer and advantageous to Congress; and in the selection of its printer, each House would doubtless take especial care to choose a man of capacity, probity, and responsibility. In addition to the bond and security to be required of them for the faithful performance of their obligations, a provision might be added, that in case of any unreasonable delay, another person might be employed to do the work, at such prices as the Secretary or Clerk might be able to get it done for, and that the public printers should respectively be responsible for any difference between the sum allowed them and that which it might be necessary to give him. The committee therefore submit the following resolution:—

The resolution submitted in the said report being also read, as follows:

*Resolved*, That the Joint Committee on Public Printing be instructed to report a resolution for carrying the foregoing proposition into effect.

The question was then taken to concur in the said resolution, and passed in the affirmative.

#### BANK OF THE UNITED STATES.

The engrossed bill to enforce the provisions of the charter of the Bank of the United States, so far as relates to the election of directors, was read the third time.

Mr. STORRS moved to recommit the bill, with instructions to strike out the provision inserted yesterday on motion of Mr. JOHNSON, of Virginia, making penal the offer to or acceptance of a bribe by any officer of the bank or any of its branches.

Mr. JOHNSON, of Virginia, opposed this motion, and justified the clause in question, by referring to the act which provided a similar guard to the purity of the Chief Justice and Judges of the Supreme Court, the terms of which act he quoted, and had copied them in the amendment to the present bill. There was, he argued, at least as much necessity for providing against corruption in this institution as in the Judges of the Supreme Court, and he trusted the amendment would be retained.

The motion to recommit was withdrawn; and the bill was then passed and sent to the Senate for concurrence.

*Ordered*, That the title be amended by adding the words, "and for other purposes;" and that the Clerk carry the three last mentioned bills to the Senate, and ask their concurrence therein.

#### AMENDMENT OF THE CONSTITUTION.

The House then, on motion of Mr. SIMKINS, resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the resolution from the Senate proposing an amendment to the Constitution of the United States, so far as to make uniform the mode of electing Electors of President and Vice President of the United States, and Representatives to Congress.

Mr. SIMKINS offered a few remarks in favor of the resolution, and of acting on it definitively, as it had passed one branch of the Legislature, and

been so long before the public that every mind was made up, and could decide on it without a protracted debate.

Mr. TUCKER, of Virginia, prefacing his motion with a few remarks in its support, proposed to amend the resolution so as to apportion the number of Electors of each State to the number of Representatives alone, and not to the number of Senators and Representatives of each State.

Mr. COBB spoke against taking up a subject of such great importance at this late period of the session; and hoped the Committee would rise and lay the resolution by.

Mr. TALLMADGE offered a few remarks, chiefly against the amendment proposed by Mr. TUCKER.

Mr. BARBOUR, of Virginia, opposed acting on a proposition, at this late hour, which went to change, in a great degree, the frame of our Government; and entered into a brief view of the effects of the resolution. In the course of his remarks he referred to a further amendment which it was the intention of Mr. TUCKER to offer, providing that, in the event of the election of the President devolving on the House of Representatives, according to the provisions of the Constitution, the election shall be determined by plurality of votes, instead of plurality of States.

Mr. WILLIAMS, of North Carolina, replied to Mr. BARBOUR, speaking briefly in favor of the resolution, and of acting on it immediately.

Mr. TAYLOR, to get rid of a subject which there was not now time properly to consider, and to which he was also opposed, moved that the Committee rise. The motion was lost—yeas 66, nays 66—the Chairman voting in the negative.

Mr. HOLMES spoke a short time against the amendment, which meant to weaken the influence of the small States, in the event of the Presidential election having to be decided by the House, which he was opposed to, although from a large State himself.

Mr. TUCKER supported his amendment by a few observations; and concluded by renewing the motion for the Committee to rise; which motion was carried, and, after discharging the Committee from the further consideration of the subject—

Mr. TAYLOR moved to lay the amendment on the table; which motion was decided in the affirmative, by yeas and nays: Yeas 79, nays 73, as follows:

YEAS—Messrs. Abbot, Anderson, of Pa., Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Blount, Boden, Boss, Burwell, Butler of Louisiana, Cobb, Comstock, Cook, Crawford, Fuller, Garnett, Hasbrouck, Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Hubbard, Hunter, Irving of New York, Johnston of Virginia, Jones, Livermore, McLane of Delaware, W. Maclay, W. P. Maclay, McCoy, Marchand, Samuel Moore, Murray, H. Nelson, Thomas M. Nelson, Nesbitt, Newton, Palmer, Patterson, Pegram, Pleasants, Poindexter, Porter, Reed of Georgia, Rhea, Rice, Ringgold, Rogers, Sampson, Savage, Scudder, Shaw, Bal. Smith, Alexander Smyth, Southard, Spencer, Tallmadge, Tarr, Taylor, Terrell,

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Tompkins, Townsend, Tucker of Virginia, Tyler, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Wilson of Pennsylvania.

NEWS—Messrs Adams, Bayley, Bloomfield, Campbell, Colston, Crafts, Cruger, Cushman, Darlington, Davidson, Desha, Edwards, Ellicott, Fisher, Folger, Gilbert, Hale, Hall of Delaware, Hall of North Carolina, Harrison, Herkimer, Heister, Holmes, Hopkinson, Huntington, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Middleton, Mills, Robert Moore, Moseley, Jer. Nelson, New, Ogden, Ogle, Orr, Owen, Parrott, Pawling, Peter, Pindall, Pitkin, Reed of Maryland, Rich, Richards, Robertson, Rugles, Seybert, Sherwood, Silsbee, Simkins, Slocumb, Samuel Smith, J. S. Smith, Speed, Storrs, Terry, Tucker of South Carolina, Upham, Walker of North Carolina, Westerlo, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

SATURDAY, February 27.

The SPEAKER presented a petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army, praying that the report of the select committee, made at the present session, in behalf of his suffering constituents, may be called up and finally acted upon.—Laid on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill providing compensation to assessors in certain cases; which was read twice, and committed to a Committee of the Whole.

Mr. RICH, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Eli Hart," made a report recommending the rejection of the said bill. The bill was committed to a Committee of the Whole on Monday next.

Mr. RICH, from the same committee, to which was referred the bill from the Senate, entitled "An act for the relief of Joseph Dozet and Antoine Bourgoud," reported the same with an amendment, and the bill was committed to a Committee of the Whole last appointed.

Mr. RICH, from the same committee, to which was also referred the bill from the Senate, entitled "An for the relief of Jacob Purkill," made a report recommending that the said bill be postponed indefinitely. This bill was also committed to the Committee of the Whole last appointed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri,' with amendments, in which they ask the concurrence of this House.

On motion of Mr. HOLMES, the Secretary of the Treasury was requested to inform this House, what sums of money have been paid to the Attorney General of the United States, for extra services, designating the services and the fund from which the money has been paid.

The Committee of the Whole, to which is

committed the bill confirming certain claims to land in the Territory of Illinois were discharged.

The House then proceeded to consider the said bill, and ordered the same to be engrossed and read a third time on Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

The treaty of amity, settlement, and limits between the United States and His Catholic Majesty having been on the part of the United States ratified, by and with the advice and consent of the Senate, copies of it are now transmitted to Congress. As the ratification on the part of Spain may be expected to take place during the recess of Congress, I recommend to their consideration the adoption of such Legislative measures, contingent upon the event of the exchange of the ratifications, as may be necessary or expedient for carrying the treaty into effect, in the interval between the sessions, and until Congress at their next session may see fit to make further provision on that subject.

JAMES MONROE.

WASHINGTON, Feb. 26, 1819.

The Message was referred to the Committee on Foreign Relations, and permission given to the committee to sit during the sittings of the House.

The engrossed bill to alter and establish certain post roads was read the third time, and passed.

The amendments proposed by the Senate to the bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana, and Territory of Missouri,'" were read and concurred in by the House.

The amendments proposed by the Senate to the bill, entitled "An act concerning invalid pensioners," were read, and referred to the Committee on Pensions and Revolutionary Claims.

A message from the Senate informed the House that the Senate have passed bills of this House of the following titles, to wit: "An act concerning invalid pensions," and "An act for the relief of Robert McCalla and Matthew H. Jouett," with amendments to each. They disagree to the amendment proposed by this House to the bill, entitled "An act to designate the boundaries of districts and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana;" and they have passed bills of the following titles, to wit: An act authorizing the purchase of fire engines and for building houses for the safekeeping of the same; an act for the relief of Solomon Prevost; an act for the relief of Bartholomew Duverge; an act for the relief of John Pette; an act for the relief of John Anderson; an act for the relief of Alexander Milne; and an act for the relief of Christopher Fowler; in which amendments and bills they ask the concurrence of this House.

Bills from the Senate of the following titles, to wit: An act authorizing the purchase of fire engines, and for building houses for the safekeeping

of the same; an act for the relief of Solomon Prevost; an act for the relief of Bartholomew Duverge; an act for the relief of John Pettet; an act for the relief of John Anderson; an act for the relief of Alexander Milne; and an act for the relief of Christopher Fowler; were severally read the first and second time, and referred, the first and fifth to Committees of the Whole on Monday next; the second, third, fourth, and sixth to the Committee of Claims, and the seventh to the Committee on Pensions and Revolutionary Claims.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," was read and concurred in by the House.

The House took up and proceeded to consider the message from the Senate, notifying their disagreement to the amendment of this House to their bill, entitled "An act to designate the boundaries of districts and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana;" and the said amendment being again read, whereupon it was resolved that this House recede from their said amendment.

The bill for erecting a light-house on Galloo island, &c., passed through a Committee of the Whole, (Mr. PITKIN in the chair,) received some amendments on the motion of Mr. NEWTON, and was ordered to be engrossed for a third reading.

The bills for the relief of James Orr and of Robert Kidd, and John McCausland, passed through a Committee of the Whole, (Mr. A. SMYTH in the chair;) and the bill extending the term of half pay pensions to the widows and children of certain officers, and seamen, and marines, who died in the public service; and the bill for the relief of B. and P. Jourdan, passed through Committees of the Whole, (Mr. TALLMADGE in the chair;) all of which bills were ordered to be engrossed for a third reading, and the last named was read the third time, passed, and returned to the Senate.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which were referred the amendments proposed by the Senate to the bill, entitled "An act concerning invalid pensioners," reported their agreement to the said amendments. The amendments were then read and concurred in by the House.

Mr. HOLMES, from that Committee on Foreign Relations, reported a bill, authorizing the President of the United States to take possession of West Florida, for the transportation thence of the East and Spanish authorities, and providing for the temporary government of the Territory, &c., which was twice read.

#### GENERAL APPROPRIATION BILL.

The House resumed the consideration of the amendments of the Senate to the general appropriation bill, and concurred in all except that which was disagreed to by the Committee of the Whole yesterday, and so reported to the House. This amendment was an appropriation of four

thousand three hundred dollars, to be repaid to the owners of the British vessel Lord Nelson, which was captured on Lake Ontario, twelve days before the declaration of the late war, brought in and sold by agreement, and the moneys placed in the hands of the court; the capture was afterwards adjudged to be illegal, and the proceeds of the sale ordered to be refunded. In the mean time, the clerk of the court had absconded, with the moneys in his hands, and it was the purpose of this amendment to pay the amount out of the public Treasury.

Some debate took place on the amendment, in which it was opposed on the ground that the circumstances of the case had not been investigated by a committee of the House; that there were numerous claims of our own citizens which would be unsuccessful at this session, from the want of time to act on them; that this case ought not to have preference, &c. The amendment was supported on the merits and extreme hardship of the case, and the injustice of withholding payment, &c.

The disagreement to this amendment was concurred in by the House, and the bill was again sent to the Senate.

#### PUBLIC LANDS.

The House took up the bill from the Senate, further to suspend, for a limited time, the sale or forfeiture of lands for failure to complete the payments thereon.

Mr. HENDRICKS moved to amend the bill inserting a clause to exempt from back interest all sums paid previous to the 31st of March, 1820; Mr. POINDEXTER and Mr. BARBOUR spoke against the amendment, and Mr. HARRISON in favor of it; the former upon the ground of its being a new principle, which ought not to be adopted without a greater necessity than now appeared to exist; that the bill to which the amendment was offered prevented a forfeiture of such lands as were not paid for one year longer; that this was going far enough—the purchasers had the advantage of the rise of the land, and it was no hardship to make them pay the back interest, which even a court of equity would have made them pay for not complying with their contracts.

To this Mr. HARRISON replied, that the amendment was a reasonable and just provision, both in relation to the public interests as well as that of individuals. The persons who would suffer by the present pecuniary embarrassments were the poorer class of people, who had no agency whatever in producing these embarrassments, and who were not able to bear the heavy penalty which the existing law imposed for suffering the day of payment to pass without making it. Many of them had settled in frontier situations, where the land had not appreciated more than the value of the improvements which had been made upon it. The provision for paying back interest was itself a very hard one, and such as a liberal individual ought not, nor would not, insist upon. The United States had heretofore rigidly exacted it; but the circumstances of the country, in rela-



MARCH, 1819.

*Tonnage Duties.*

H. OF R.

tion to money, were never before as embarrassing. If the amendment was adopted, it would stimulate all the public debtors to make every exertion to raise the money before the expiration of the term to which the bill was limited. That our Treasury would be more embarrassed in the present year than in any subsequent one, from the heavy instalments of the public debt which were to be paid this year. The public, therefore, would be gaining by any measure which would expedite the collection of their debts. It was true that the back interest would amount to a larger sum than the Government would be obliged to give if they were to borrow the money; but, as the back interest was intended to stimulate purchasers to punctuality, it would be in the highest degree unjust to exact it under circumstances like the present, when the want of punctuality was produced by events which those who were subject to pay it could not control.

Mr. HENDRICKS's motion was negative, and the bill was ordered to a third reading; and, after an ineffectual attempt by Mr. MERCER to lay it on the table, until the House should have acted on the bill requiring cash payments for public lands, the bill was read the third time, passed, and returned.

#### TONNAGE DUTIES.

The House took up the bill from the Senate in addition to the act concerning tonnage and discriminating duties, [extending the provisions of that act to the vessels of Prussia, Hamburg, and Bremen.]

This bill was explained and supported in a short speech by Mr. PITKIN.

Mr. SMITH, of Maryland, was opposed to the bill in its present shape, and entered into some commercial statements to show that it was inexpedient, particularly as it was in the nature of a convention, and could not be altered for five years. Among his objections, Mr. S. said that a very heavy transit duty was laid by Prussia on our tobacco, passing through the Netherlands, up the Rhine, into her dominions, which had greatly affected the price of that staple in Holland; and he proposed an amendment, substantially, to require of Prussia to lay no higher duty on our tobacco, passing thither through the Netherlands, than was imposed on it if it entered in a Prussian port, as Dantzic, Stetten, Stralsund, &c.

Mr. TRIMBLE made a few remarks, observing, that if this extraordinary duty was laid by Prussia on our tobacco, we ought to impose a corresponding duty on her Silesia linens, &c., and thus beat her with her own weapons.

Mr. SMITH's proposition to amend was negatived by a large majority, and the bill was then read a third time, passed, and returned to the Senate.

MONDAY, March 1.

An engrossed bill for erecting a light-house upon Galloo island, near the outlet of Lake Ontario; for placing sundry spindels and buoys, and

for other purposes, was read the third time, and passed.

*Ordered*, That the title be, "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys on places designated in Boston, Buzzard, and Chesapeake bays, Lakes Ontario and Erie, and for other purposes."

An engrossed bill confirming certain claims to land in the Territory of Illinois was read the third time, and passed.

*Ordered*, That the title be, "An act confirming certain claims to land in the State of Illinois."

An engrossed bill for the relief of Robert Kidd, of Philadelphia, was read the third time, and passed.

*Ordered*, That the title be, "An act for the relief of Robert Kidd, Seth Webber, and Thomas Page."

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill authorizing the sale of certain military sites; which was read the first and second time, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. SPENCER,

*Resolved*, That the Secretary of the Treasury be requested to transmit to Congress, at an early period in the next session, a general statement of the condition of the Bank of the United States and its offices, similar to the returns made to him by the bank; and a statement exhibiting, as nearly as may be practicable, the amount of capital invested in the different chartered banks in the several States and in the District of Columbia; the amount of notes issued by those banks and in circulation; the public and private deposits in them; the amount of loans and discounts made by them and remaining unpaid; and the total quantity of specie they possess; and that he be requested also to report such measures as in his opinion may be expedient to procure and retain a sufficient quantity of gold and silver coin in the United States, or to supply a circulating medium in place of specie, adapted to the exigencies of the country, and within the power of the Government.

Engrossed bills of the following titles, viz: An act extending the term of half pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service; an act for the relief of John McCausland; and an act for the relief of James Orr, were severally read the third time, and passed.

The House, on motion, proceeded to the consideration of the bill from the Senate to continue in force an act regulating the currency within the United States of the gold and silver coins of Great Britain, France, Portugal, and Spain, and the crowns and five franc pieces of France.

On motion of Mr. LOWNDES, the bill was amended by an entire substitute, without, however, materially changing its provisions; which amendment was ordered to be engrossed, and was subsequently read the third time, passed, and sent to the Senate.

A message from the Senate informed the House that the Senate have passed bills of the following

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titles, to wit: "An act making provision for the civilization of the Indian tribes adjoining the frontier settlements;" and "An act granting a donation of land to the State of Illinois, for the seat of government of said State," in which two bills they ask the concurrence of this House.

The bill from the Senate granting a donation of land to the State of Illinois for the seat of government, was twice read, passed, and returned.

The bill from the Senate, entitled "An act making provision for the civilization of the Indian tribes adjoining the frontier settlements," was read twice, and referred to the Committee on Indian Affairs.

#### SURVIVING REVOLUTIONARY OFFICERS.

On motion of Mr. POINDEXTER, the Committee of the Whole, to which is committed the report of the select committee on the petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army, were discharged; and the House then took up and proceeded to consider the said report.

The report concludes with the following resolution:

*"Resolved, That each officer of the Revolutionary army who was entitled to half pay for life under the several resolves of Congress upon that subject, and afterwards, in commutation thereof, received the amount of five years' full pay, in certificates or securities of the United States, shall now be paid, by the United States, the nominal amount of such certificates or securities, without interest, deducting therefrom one-eighth part of the said amount."*

The report and resolution having been read, and the question having been stated on concurring with the Committee in the resolution—

Mr. McCox moved that it be indefinitely postponed; which motion was decided in the affirmative, as follows: For postponement, 60; against it 48.

So the motion was rejected, and the subject dismissed for the present session.

#### CONNECTICUT ASYLUM.

The House next agreed, on motion of Mr. TERRY, by the casting vote of the Speaker, to take up the bill for the benefit of the Connecticut asylum for the deaf and dumb, [granting to it a donation of six sections of the public lands.]

Mr. TERRY briefly adverted to the humane object of this institution, its general and extensive utility, the number of unhappy objects who were already receiving the benefits of the asylum, &c. The bill was also supported by Mr. HARRISON, who agreed in opinion as to its general utility—there being numbers of the unfortunate beings for whose benefit it was intended, scattered through many of the States, if not all, &c.

The bill was opposed by Mr. BASSETT, who deemed the institution entirely a local one, not deserving more than any other local object, the expenditure of national funds on it. He sympathized with the subjects in the institution, but it was not a charitable one, as the rich alone, he understood, received the benefits of the asylum;

and he was unwilling to tax the poor for their support; and it was furthermore a precedent which might hereafter be regretted when too late. He moved the commitment of the bill.

Mr. TERRY replied that the institution was strictly charitable, as it was almost exclusively used for the benefit of the indigent.

Mr. POINDEXTER was unwilling to vote a donation of the public lands for this object; a similar donation had been refused to the individual States for the benefit of an university, &c.

Mr. PITKIN replied to the opponents of the bill at some length, and supported the humanity and extensive usefulness and benign effects of the institution.

The motion to commit the bill was lost; and the question being on a third reading, the debate became more extensive—it being supported by Messrs. ORR, TERRY, COLSTON, and MERCER; and opposed by Messrs. BASSETT and BARBOUR; the last named gentleman moving the indefinite postponement of the bill, which was negatived—ayes 43, noes 60, and the bill was then ordered to be engrossed for a third reading to-day.

#### OCCUPATION OF FLORIDA.

The House then, on motion of Mr. HOLMES, resolved itself into a Committee of the Whole on the state of the Union, to which was referred the bill authorizing the President of the United States to take possession, under the treaty with Spain, of East and West Florida, and providing for the temporary government of the territory.

Mr. HOLMES moved to amend the bill, by inserting a provision to authorize the appointment of commissioners for the adjustment of the claims and of the western boundary, in pursuance of the stipulations of the treaty, and providing the sum of — dollars to defray the expenses of the said commission.

Mr. H. in proposing this amendment, remarked, that it was made rather in pursuance of the suggestion of one of the Executive Departments, (the Secretary of State,) by whom it was considered necessary, than because it had been deemed essential by the committee. It remained for the House to decide whether it was now proper or not.

Mr. POINDEXTER thought that Congress would act more understandingly on this subject, if it waited for the ratification of the treaty. It was not now known what the duties of those commissioners would be; how extensive, what amount of spoiliations they would have to adjust, &c. The bill constituting the commissioners ought to point out the place of their sitting, what kind of evidence they should receive, &c. All these points could be better settled and provided for after the treaty was ratified—until then, the provision would be premature.

Mr. HOPKINSON replied, in substance, that there was little doubt of the ratification of the treaty; and that by authorizing the appointment of commissioners now, much time would be saved; that many of the sufferers from these spoiliations looked to this settlement for relief from their distress;

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that as the treaty would, in all probability, be ratified by July, five or six months of delay would be avoided; that, supposing the Government should allow the sufferers interest on their claims, a prompt settlement would be an important saving to the Government; that the proceedings on the Louisiana convention were similar to what was now proposed; and finally, that as some good might result from the amendment, and no inconvenience whatever, it had better be adopted.

Mr. CLAY expressed great confidence in all the committees of the House, but desired to make an inquiry of the chairman of the Committee of Foreign Relations, which was, whether the blank in the amendment for the compensation of the commissioners was also proposed in pursuance of the suggestion of the same Executive officer, who it seemed had suggested the amendment itself, and if so, what that sum was intended to be? Mr. C. proceeded to remark, in reply to Mr. HOPKINSON, that he might spare himself any trouble about *interest* on these claims; if the claimants should get the *principal*, they would, in his opinion, do very well, as the amount of the claims probably exceeded the five millions to be paid. But the truth was, Mr. C. said, legislation on this subject was premature, and not justified by the necessity of the case. There was no doubt the treaty would be ratified by the King of Spain, unless, on this as on some other subjects, he should be mad; and when the House had authorized the President merely to take possession of the territory, there legislation, at present, ought to stop. As, however, Ferdinand might think proper to withhold his assent from the treaty, this Government would cut rather a ridiculous figure, if it should now proceed in anticipation to execute its stipulations. Another objection Mr. C. observed was, that these commissioners required the confirmation of the Senate, and no time would be gained by this amendment, unless the commissioners were permitted to act before their appointment should be confirmed by the Senate. But, at any rate, very little time would be gained—a month or two at most, before the meeting of the next session of Congress, and he did not think, even if were proper, that it would be worth while now to act on it.

Mr. HOLMES replied that he was prepared to propose a sum for the blank, if the amendment should prevail. As to the suggestions of the Executive officer referred to, Mr. H. said, there were frequent occasions, on subjects like the present, where an Executive officer might be consulted advantageously to the public interests. A sum, it was true, had been suggested to the committee, which was considered requisite to provide for the service proposed by the amendment, but the House could decide if that sum was proper. The objection to this amendment derived from the necessary confirmation of the appointment of the commissioners by the Senate, Mr. H. said, had weight in it; and unless they could be appointed this session, they would be unable to act in the recess. Indeed he thought the bill, as it was, sufficient for the present purposes; but in offering the

amendment, it was believed it would expedite the settlement of the claims and be a saving to the United States.

Mr. POINDEXTER, among other remarks, said, the President could not make original appointments in the recess of the Senate; all he could do was to fill vacancies—therefore, he could not appoint the commissioners during the recess of Congress.

Mr. JOHNSON, of Virginia, remarked that every day discovered some improvement in legislation; every day brought forth some novelty in the proceedings of this House. Mr. J. then expressed his strong disapprobation of the practice of having salaries and appropriations pointed out to the House by Executive officers; and contended that the House could fix the salary of an officer, and know what was proper without any advice from that quarter.

The question was then taken on the proposed amendment, and decided in the negative without a division; and the bill was ordered to be engrossed, and was subsequently read a third time, passed, and sent to the Senate for concurrence.

#### THE SLAVE TRADE.

The House, on motion of Mr. MIDDLETON, went into Committee of the Whole Mr. PITKIN in the chair, on the bill in addition to the acts prohibiting the slave trade.

Mr. MIDDLETON took a succinct view of the provisions of this bill, the evils it was intended to remedy, the necessity for its enactment, &c.

Much debate arose on different features of this bill, as they came under consideration. The third and fourth sections, which provide bounties for the officers and crews of the public vessels which shall capture slaves importing into the United States, and to the informers who lead to the conviction of smugglers of slaves into the Union, were warmly opposed by Mr. STROTHER for various reasons of expediency, and not from unwillingness to destroy the traffic and kidnapping, &c., of slaves. Mr. NELSON, opposed these sections because the penalties were not heavy enough for the offence, which he thought ought to be punished with death.

Mr. MERCER supported the bill throughout, explaining and defending its provisions against all objections.

In the course of the discussion, Mr. BUTLER, of Louisiana, proposed the following as an additional section, which he prefaced by a few remarks to show that the clause he offered was called for by a due regard for the interests of the State which he represented. The amendment was in the following words, and was agreed to without opposition, viz:

“That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo for adjudication into some of the ports of the State or Territory to which such vessel so captured shall belong, if he can ascertain the same, if not, then to be sent into any convenient port of the United States.”

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Mr. PINDALL, after some prefatory remarks, offered the following, as an additional section which was agreed to, viz :

"That every person who shall import into the United States, or knowingly aid or abet the importation into the United States, of any African negro, or other person, with intent to sell or use such negro, or other person, so to be imported, as a slave, or shall purchase any such slave, knowing him or her to be thus imported, shall, on conviction thereof, in any circuit court of the United States, be punished by death."

After unsuccessful attempts of Mr. STROTHER, to strike out the third and fourth sections, the Committee rose and reported the amendments to the House which were concurred in ; and the bill was ordered to be engrossed for a third reading.

The engrossed bill for the benefit of the Connecticut Asylum, for the instruction of the deaf and dumb, was read the third time.

Mr. STROTHER spoke some time in opposition to the bill, and was replied to by Messrs. TERRY, PITKIN, and LIVERMORE ; when the bill was passed, ayes 57, noes 45, and sent to the Senate for concurrence.

#### TUESDAY, March 2.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned," reported the same, without amendment; and the bill was committed to a Committee of the Whole to-day.

Mr. RICH, from the Committee of Claims, to which was referred bills from the Senate, of the following titles, to wit : "An act for the relief of Rosalie P. Deslande," and "An act for the relief of Francis B. Languille," reported the said bills, with an amendment to the latter, and the bills were committed to a Committee of the Whole to-day.

Mr. H. NELSON, from the Committee on the Judiciary, to which is referred the bill from the Senate, entitled "An act for the relief of Nathan G. Birdseye and Daniel Booth," reported the same without amendment, and the bill was ordered to be read a third time to-day.

Mr. POINDEXTER, from the Committee on the Public Lands, to whom was referred the resolution of the Senate, requesting the President of the United States to employ an artist to ascertain the latitude of 36 degrees 30 minutes north, reported the same without amendment; and, on motion, the resolution was laid on the table.

The House took up the bill from the Senate, to regulate and fix the salaries of the registers and receivers of public moneys.

Mr. TALLMADGE moved to amend the bill by striking out \$4,500, the amount of salary fixed by the Senate, and to insert \$3,000; which motion, after some discussion, was agreed to; and then,

On motion of Mr. TAYLOR, the bill was indefinitely postponed.

On motion of Mr. JOHNSON, of Kentucky, the

Military Committee were discharged from the further consideration of all such petitions referred to them at the present session, upon which they have not yet reported; and the said petitions were laid on the table.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred a report of the Commissioners of the Navy Pension Fund, made to the House during the present session, made a report thereon; which was read, and the resolution therein contained, after some explanatory remarks by Mr. P., was concurred in, as follows:

"Resolved, That the Commissioners of the Navy Pension Fund be instructed to use all the means which the laws place within their power, to coerce payment of the balances due to the fund from all persons who may be found indebted to the same, and that they report to the House of Representatives at an early period of the next session of Congress, a particular statement of the means which have been used, and the success of those means in accomplishing the objects of this resolution: And also, that they report whether any, and what, additional legislative provisions may be necessary to compel a compliance with the different provisions of the laws on this subject."

Mr. PLEASANTS, from the same committee, reported, without amendment, the bill from the Senate to incorporate into one act the several acts concerning hospitals, and sick and disabled seamen; and then, on motion of Mr. P., made by the instruction of the Naval Committee, the bill was indefinitely postponed.

The Committee on Naval Affairs were discharged from the consideration of all such petitions, and other matters referred to them at the present session, upon which they have not reported.

Mr. SOUTHARD, from the Committee on Indian Affairs, to which was referred the bill from the Senate, entitled "An act making provision for the civilization of the Indian tribes, adjoining the frontier settlements," reported the same without amendment; and the bill was committed to the Committee of the Whole, to which is committed the bill from the Senate, entitled "An act making appropriations to carry into effect treaties concluded with the several Indian tribes therein mentioned."

A message from the Senate informed the House that the Senate have passed a bill of this House, entitled "An act regulating the payments to invalid pensioners," with amendments; and they have passed bills of the following titles, to wit: An act relative to the Patent Office, and to the salary of the superintendent thereof; an act for the relief of Vincent Grant; an act for the relief of Joseph Lefebvre; an act for the relief of Labe-doyere de Kermion; and an act providing for the correction of errors in making entries of land at the land offices; in which amendments, and five last mentioned bills, they ask the concurrence of this House.

The bill from the Senate, entitled "An act for the relief of Nathan G. Birdseye and Daniel Booth," was read the third time, and passed.

Engrossed bills of the following titles, to wit:

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An act authorizing the sale of certain military sites; and an act in addition to the acts prohibiting the slave trade; were severally read the third time, and passed.

Bills from the Senate of the following titles, to wit: An act for the relief of Joseph Lefebvre; an act for the relief of Labedoyere de Kermion; an act for the relief of Vincent Grant; and an act relative to the Patent Office, and to the salary of the superintendent thereof; were severally read twice, and referred; the *first* and *second* to the same Committee of the Whole, to-day; the *third* to the Committee of Claims, and the *fourth* to the Committee on the Judiciary.

The amendments proposed by the Senate to the bills of this House, of the following titles, to wit: An act regulating the payments to invalid pensioners; and an act for the relief of Hannah Ring and Luther Frink; were read, and severally concurred in by the House.

Mr. FOLGER, from a select committee, to whom was referred the bill from the Senate for the relief of Daniel Pettibone, (renewing his patent for welding steel to iron,) reported that it was inexpedient to pass the bill; and the bill was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to revive the powers of the Commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to lands at Green Bay and Prairie du Chien, in the Territory of Michigan;" in which bill they ask the concurrence of the House.

The said bill was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate providing for the correction of errors in making entries of land at the land offices, was read the third time, passed, and returned to the Senate.

#### MISSOURI STATE.

The House took up the amendments of the Senate to the bill authorizing the formation of a State government for the Territory of Missouri, and concurred in all of them, except that which struck out the prohibitory clause concerning the admission and toleration of slavery.

Some debate arising again on the principle of this amendment, Mr. TALLMADGE moved the indefinite postponement of the bill.

This motion was discussed at some length; Messrs. MILLS, TAYLOR, and TALLMADGE, supporting the postponement, and Messrs. SCOTT, ANDERSON, of Kentucky, POINDEXTER, TUCKER, of Virginia, BARBOUR, of Virginia, and BEECHER, opposing it; and was decided in the negative—yeas 69, nays 74, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hopkinson, Hostetter, Hubbard, Hunter, Irving of New York, Kinsey, Kirtland, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill,

Mills, Samuel Moore, Murray, Jeremiah Nelson, Ogle, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, and Wilson of Pennsylvania.

NAYS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Va., Bayley, Beecher, Bloomfield, Blount, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Floyd, Hall of North Carolina, Harrison, Hogg, Holmes, Huntington, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed of Georgia, Rhea, Ringgold, Robertson, Settle, Seybert, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina.

All the said amendments were then concurred in, except that which proposes to strike out the following clause: "The further introduction of 'slavery or involuntary servitude, be prohibited, except for the punishment of crimes, whereof of the party shall have been duly convicted. And that all children of slaves born within the said State, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years;" and insert, "the Legislature of the said State shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the titles in such soil, to the bona fide purchasers; and that no tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents."

Mr. ADAMS opposed the concurrence at some length.

The question was then taken to concur with the Senate in striking out the said clause, and determined in the negative—yeas 76, nays 78, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Bloomfield, Blount, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Settle, S. Smith, Bal. Smith, Alex. Smyth, Speed, Stewart of N. Carolina, Strother, Stewart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Caro-

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lina, Walker of Kentucky, and Williams of North Carolina.

**NAVS**—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Boss, Campbell, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of R. Island, Merrill, Mills, Robert Moore, Samuel Moore, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Seybert, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, and Wilson of Pennsylvania.

So the House refused to agree with the Senate in striking out the clause, and the bill was returned to the Senate.

#### SENATE BILLS, &c.

The bill from the Senate making appropriations to carry into effect treaties concluded with the several Indian tribes therein mentioned, was read the third time and passed.

The House then resolved itself into a Committee of the Whole, on the bill from the Senate making provision for the civilization of the Indian tribes adjoining the frontier settlements.

This bill was opposed by Mr. BARBOUR, on various grounds of expediency, without being at all opposed to the object which the bill had in view, but which it was not calculated to effect, and moved to strike out the first section of the bill. The motion was opposed by Messrs. MILLS, MERCER, TALLMADGE, and HARRISON, and was finally negatived—ayes 25, noes 78; and the bill was then reported to the House, and ordered to a third reading, and was read a third time accordingly, passed, and returned.

The House proceeded to the consideration of the bill from the Senate for the adjustment of claims to land and establishing land offices in the district east of the island of Orleans.

Mr. LOWNDES, for reasons which he offered at large to the House, moved to postpone the bill indefinitely. The motion was earnestly opposed by Messrs. POINDEXTER and BUTLER of Louisiana, and was finally agreed to; but,

On motion of Mr. TERRY, this vote was subsequently reconsidered, and the bill was ordered to a third reading; and was read a third time, passed and returned.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled "An act in addition to the acts prohibiting the slave trade," with an amendment. They have also passed a "resolution directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and providing for the appointment of a printer or printers," in which amendment and resolution they ask the concurrence of this House.

The joint resolution from the Senate, directing the manner of executing, and fixing the prices to

be paid for the public printing, was thrice read, passed, and returned to the Senate.

The amendment to the bill, entitled "An act in addition to the acts prohibiting the slave trade," was read and concurred in by the House.

The bill from the Senate to provide for the due execution of the laws of the Union in the State of Illinois, passed through a Committee of the Whole, (Mr. HUGH NELSON in the chair,) and was subsequently read the third time, passed, and returned to the Senate.

#### MISSOURI STATE.

A message was received from the Senate, announcing that they adhere to their amendment, (striking out the restriction of slavery,) to the bill authorizing a State government for the Missouri Territory.

The said message was then taken up; when Mr. TAYLOR moved that this House adhere to its disagreement to said amendment; which motion brought on a renewal of the debate on the subject; in which the restriction was zealously supported by Messrs. TAYLOR, MILLS, and TALLMADGE, and as zealously opposed by Mr. COBB.

Mr. COBB observed that he did not rise for the purpose of detaining the attention of the House for any length of time. He was too sensible of the importance of each moment which yet remained of the session, to obtrude many remarks upon their patience. But, upon a measure involving the important consequences that this did, he felt it to be an imperative duty to express his sentiments, and to enter his most solemn protest against the principle proposed for adoption by the amendment. Were gentlemen aware of what they were about to do? Did they foresee no evil consequences likely to result out of the measure if adopted? Could they suppose that the Southern States would submit with patience to a measure, the effect of which would be to exclude them from all enjoyment of the vast region purchased by the United States beyond the Mississippi, and which belonged equally to them as to the Northern States? He ventured to assure them that they would not. The people of the slaveholding States, as they are called, know their rights, and will insist upon the enjoyment of them. He should not now attempt to go over ground already occupied by others, with much more ability, and attempt to show that, by the treaty with France, the people of that territory were secured in the enjoyment of the property which they held in their slaves. That the proposed amendment was an infraction of this treaty, had been most clearly shown. Nor would he attempt to rescue from slander the character of the people of the Southern States in their conduct towards, and treatment of, their black population. That had also been done, with a degree of force and eloquence to which he could pretend no claim, by the gentleman from Virginia, (Mr. BARBOUR,) and the honorable Speaker. He was, however, clearly of opinion that Congress possessed no power under the Constitution to adopt the principle proposed in the amendment. He called upon the advocates of it

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to point out, and lay their finger upon, that clause of the Constitution of the United States which gives to this body the right to legislate upon the subject. Could they show in what clause or section this right was expressly given, or from which it could be inferred? Unless this authority could be shown, Congress would be assuming a power, if the amendment prevailed, not delegated to them, and most dangerous in its exercise. What is the end and tendency of the measure proposed? It is to impose upon the State of Missouri conditions not imposed upon any other State. It is to deprive her of one branch of sovereignty not surrendered by any other State in the Union, not even those beyond the Ohio; for all of them had legislated upon this subject: all of them had decided for themselves whether slavery should be tolerated at the time they framed their several constitutions. He would not now discuss the propriety of admitting slavery. It is not now a question whether it is politic or impolitic to tolerate slavery in the United States, or in a particular State. It was a discussion into which he would not permit himself to be dragged. Admit, however, its moral impropriety: yet there was a vast difference between moral impropriety and political sovereignty. The people of New York or Pennsylvania may deem it highly immoral and politically improper to permit slavery, but yet, they possess the sovereign right and power to permit it, if they choose. They can to-morrow so alter their constitutions and laws as to admit it, if they were so disposed. It is a branch of sovereignty which the old thirteen States never surrendered in the adoption of the Federal Constitution. Now the bill proposes that the new State shall be admitted upon an equal footing with the other States of the Union. It is in this way only that she can be admitted, under the Constitution. These words can have no other meaning than that she shall be required to surrender no more of her rights of sovereignty, than the other States, into a union with which she is about to be admitted, have surrendered. But if the proposed amendment is adopted, will not this new State be shorn of one branch of her sovereignty, one right, which the other States may and have exercised, (whether properly or not, is immaterial,) and do now exercise whenever they think fit?

Mr. C. observed that he did conceive the principle involved in the amendment pregnant with danger. It was one, he repeated, to which he believed the people of the region of country which he represented would not quietly submit. He might perhaps subject himself to ridicule for attempting the display of a spirit of prophecy which he did not possess, or of zeal and enthusiasm for which he was entitled to little credit. But he warned the advocates of this measure against the certain effects which it must produce. Effects destructive of the peace and harmony of the Union. He believed that they were kindling a fire which all the waters of the ocean could not extinguish. It could be extinguished only in blood!

The question was finally taken on adhering to the former decision of the House, and decided in the affirmative, by yeas and nays. For adhering 78, against it 66, as follows:

**YEAS**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boss, Campbell, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Moseley, Murray, J. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

**NAYS**—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Bloomfield, Blount, Burwell, Butler of Louisiana, Cobb, Colston, Crawford, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Harrison, Herbert, Hogg, Holmes, Johnson of Virginia, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed of Georgia, Rhea, Ringgold, Settle, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Storrs, Strother, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, and Williams of North Carolina.

The adherence of the two Houses to their respective opinions, precluding any further propositions or compromise on the subject, the bill was of course lost.

The House then resolved itself into a Committee of the Whole, on motion of Mr. HARRISON, (Mr. COBB in the chair,) on the bill concerning invalid pensioners, and made some progress therein; when, about sunset, the Committee rose, and the House adjourned.

### WEDNESDAY, March 3.

The Committee of Ways and Means, the Committee of Claims, and the Committee on the Post Office and Post Roads, were discharged from the further consideration of such matters and things as may have been referred to them at the present session, and upon which they have not reported.

On motion of Mr. PLEASANTS, the Commissioners of the Marine and Navy Hospital Funds, were instructed to report to this House, at an early period of the next session of Congress, whether any alterations are necessary in the laws constituting and regulating these funds; and if they shall be of opinion that any changes are necessary, that they report the same, with a plan for establishing such a system as will, in their opinions, best promote the object of the institutions.

The House resolved itself into a Committee

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of the Whole on the bill from the Senate, entitled "An act for the relief of John Rice Jones." The bill was reported without amendment, read a third time, and passed.

The House then resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act for the relief of Michael Hogan." The bill was reported with an amendment, which was concurred in by the House; and the bill read a third time, and passed.

The House again resolved itself into a Committee of the Whole on the bill, of the present session, concerning invalid pensioners. The bill was reported with an amendment, which was read and disagreed to by the House.

The bill was ordered to be engrossed and read a third time to-day, which was subsequently done, and the bill passed.

The House resolved itself into a Committee of the Whole, on the bill, in addition to, and alteration of, an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" as also, on the bill further to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other other purposes, and on the several subjects thereto committed; and after some time spent therein, the Committee reported the first mentioned bill without amendment, and asked leave to sit again on the residue of the order; which was granted by the House.

The first mentioned bill was ordered to be engrossed and read a third time, to-day, which was done, and the bill passed.

A message from the Senate informed the House that the Senate have passed bills of this House, of the following titles, to wit: "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard's and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes;" "An act to alter and establish certain post roads;" "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein;" with amendments to each. The Senate have also passed a bill entitled "An act to fix the time for the next meeting of Congress;" in which amendments and bill they ask the concurrence of this House.

The House took up and proceeded to consider the bill from the Senate, entitled "An act making further provision for the sale of the public lands."

Mr. POINDEXTER moved that the bill be committed to a Committee of the Whole.

Mr. HOLMES moved that it lie on the table; both of which motions being rejected,

Mr. BALL moved that the bill be postponed indefinitely; when,

On motion of Mr. HOLMES, the bill was ordered to lie on the table.

The amendments proposed by the Senate to the bill, entitled "An act to authorize the President of the United States to take possession of

East and West Florida, and to establish a temporary government therein," were taken up and read; whereupon,

*Resolved*, That this House concur in all the said amendments, except that which proposes to add a new section as the fifth section of the said bill, with an amendment to the fifth and sixth of the said amendments.

*Resolved*, That this House do not agree to so much of the said amendments, as proposes to add a new section to the said bill.

The amendments proposed by the Senate to bills of this House of the following titles, to wit: An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard's and Chesapeake bays, Lakes Ontario and Erie, and for other purposes; and, An act to alter and establish certain post roads, were read, and severally concurred in by the House.

The bill from the Senate, entitled "An act to fix the time for the next meeting of Congress," was read twice; and, on motion of Mr. BARBOUR, of Virginia, was postponed indefinitely.

Mr. COLSTON moved the House again to resume the consideration of the bill from the Senate, making further provision for the sale of the public lands; which was rejected.

A message from the Senate informed the House that they have passed a bill of this House, entitled "An act for the relief of Henry Batman, with an amendment; in which they ask the concurrence of the House.

The amendment was read, and concurred in.

The House adjourned until 6 o'clock, P. M.

*Six o'clock. P. M.*

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act for the relief of Rees Hill;" which was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act authorizing the purchase of fire engines, and for building houses for the safekeeping of the same." The bill was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

On motion of Mr. OGDEN, the several persons who have presented petitions to this House during the present session, and upon which the House have not acted, had leave to withdraw the same, and also the several papers which have been exhibited by them in support thereof.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act for the relief of Aquilla Giles." The bill was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to establish a new land office in the State of



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Illinois," in which bill they ask the concurrence of this House.

Mr. TAYLOR moved the House to come to the following order:

*Ordered*, That no printing directed by this House to be executed shall be received from the printer, by the officers thereof, after the first day of May next.

The bill from the Senate, entitled "An act to establish a new land office in the State of Illinois," was read the first time; and, on the question, Shall the said bill be read the second time? there appeared—yeas 70, nays 21, as follows:

YEAS—Messrs. Abbot, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bayley, Butler of Louisiana, Cobb, Comstock, Davidson, Drake, Elliott, Fisher, Floyd, Folger, Garnett, Gilbert, Hall of North Carolina, Harrison, Hendricks, Herrick, Holmes, Hubbard, Irving of New York, Johnson of Virginia, Jones, Lewis, Lincoln, Linn, Livermore, McLean of Illinois, Mason of Massachusetts, Mercer, Middleton, Samuel Moore, Moseley, Jeremiah Nelson, H. Nelson, Newton, Ogle, Owen, Palmer, Parrott, Pegram, Peter, Pitkin, Reed of Maryland, Reed of Georgia, Rhea, Rich, Ringgold, Rogers, Ruggles, Sampson, Settle, Seybert, Silsbee, Speed, Storrs, Stuart of Maryland, Tarr, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Westerlo, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Bateman, Bennett, Darlington, Earle, Hopkinson, Little, McLane of Delaware, W. Maclay, W. P. Maclay, Murray, Ogden, Schuyler, Sergeant, S. Smith, Southard, Tallmadge, Terrell, Terry, Whitman, and Williams of Connecticut.

Thus it appeared that a quorum was not present.

The House proceeded, by ballot, to the election of a printer, to execute the printing ordered by the House of Representatives during the next Congress, in pursuance of the "Resolution directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and for the appointment of a printer or printers to Congress." And, upon an examination of the ballots, it appeared that JOSEPH GALES, Jr., and WILLIAM W. SEATON, under the firm of GALES and SEATON, were duly elected.

A message from the Senate informed the House that the Senate have elected Gales and Seaton printers, on their part, to execute the printing of the Senate during the next Congress, pursuant to the resolution on that subject. They have passed a resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that the two Houses of Congress are about to adjourn, if he has no further communications to make to them, and have appointed a committee on their part.

The said resolution was read and concurred in by the House, and Messrs. PITKIN and HARRISON were appointed of the said committee on their part.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of this House of the 27th ult., 15th CON. 2d SESS.—46

directing him to inform this House what sums of money have been paid to the Attorney General of the United States for extra services, designating the service, and the fund from which the money has been paid; which letter was read, and ordered to lie on the table.

The letter is as follows:

TREASURY DEPARTMENT, *March 3, 1819.*

SIR: In obedience to a resolution of the House of Representatives of the 27th ultimo, which has been this day received, directing the Secretary of the Treasury to inform the House what sums of money have been paid to the Attorney General of the United States for extra services, designating the services and the fund from which the money has been paid, I have the honor to state that, on the 18th of December, 1818, there was paid to the Attorney General the sum of \$950, and, on the 21st of the same month, the further sum of \$550. These two sums were paid on the requisition of the Secretary of State for services rendered by the Attorney General in the trials which took place in Baltimore for violations of the provisions of the "act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," passed on the 20th day of April, 1818.

The former of these sums was paid out of the appropriation of \$6,000 "for the discharge of such claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury;" and the latter out of the appropriation for the contingent expenses of foreign intercourse. The whole sum would have been paid out of the former appropriation if the amount unapplied to other objects had been sufficient to discharge it.

Copies of the requisitions from the State Department, upon which the money was paid, are enclosed.

No other payments have been made to the Attorney General from the Treasury for services rendered to the United States, except the sum of \$100, in the year 1814, for services rendered in the case of the United States against Brown and others, upon certain protested bills of exchange. This sum was paid out of the fund first above mentioned. The services for which compensation has been made to the Attorney General from the Treasury were not rendered in the Supreme Court of the United States.

I have the honor to be, &c.

WM. H. CRAWFORD.

Hon. H. CLAY, *Speaker House of Reps.*

THANKS TO THE SPEAKER.

On motion of Mr. HUGH NELSON, it was

*Resolved, unanimously*, That the thanks of this House be presented to the honorable Henry Clay, for the able, impartial, and dignified manner in which he has presided over its deliberations, and performed the arduous and important duties of the Chair.

Upon which Mr. CLAY rose, and addressed the House as follows:

I beg you to receive, gentlemen, my most respectful acknowledgments for the flattering vote you have done me the honor to pass. Always entertaining for this House the highest consideration, the expression of your approbation conveys a gratification as pure as it is indescribable. I owe it to truth, however, to say, gentlemen, that, but for the almost unlimited confidence with which you have constantly sustained the

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Chair, I should have been utterly incompetent to discharge its arduous duties.

If, gentlemen, in the course of our deliberations, momentary irritation has been at any time felt, or unkind expressions have ever, in the heat of debate, fallen from any of us, let these unpleasant incidents be consigned to oblivion, and let us recollect only the anxious desire which has uniformly animated every one to promote what appeared to him to be for the prosperity of our common country.

One painful circumstance fills me with the deepest regret. It is that, after having co-operated with many of you, with some for years, to advance the public good, we separate to meet perhaps no more. I here bear testimony to the fidelity with which you have all labored to fulfil the high and honorable trust committed to us by the nation. And every one of you

will carry with you my most ardent wishes for your individual welfare and happiness.

MR. PITKIN, from the joint committee appointed to inform the President of the United States that the two Houses of Congress are about to adjourn, if he had no further communications to make to them, reported that the committee had waited on the President of the United States, and was informed by him that he had no further communications to make.

A message was then received from the Senate informing the House that the Senate, having completed the legislative business before them, are ready to adjourn; whereupon, the House adjourned *sine die*.

# APPENDIX

## TO THE HISTORY OF THE FIFTEENTH CONGRESS.

[SECOND SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

### GREAT BRITAIN—CONVENTION OF OCTOBER 20, 1818.

[Communicated to the Senate, December 29, 1818.]

*To the Senate of the United States:*

I lay before the Senate, for their consideration, a convention signed at London on the 20th of October last, between the United States and Great Britain, together with the documents showing the course and progress of the negotiation. I have to request that these documents, which are original, may be returned when the Senate shall have acted on the convention.

JAMES MONROE.

DECEMBER 29, 1818.

*Mr. Monroe to Mr. Baker, Chargé des Affaires from England.*

DEPARTMENT OF STATE, July 18, 1815.

SIR: I have the honor to communicate to you a copy of a letter from the collector of the customs at Barnstable to the Secretary of the Treasury, by which it appears that an American vessel engaged in the cod fishery, in longitude 65° 20', latitude 42° 41', was warned off by the commander of the British sloop-of-war Jaseur, and ordered not to approach within sixty miles of the coast; with which order the commander of the American vessel immediately complied. It appears, also, that a similar warning had been given by the commander of the Jaseur to all the other American vessels that were then in sight.

This extraordinary measure has excited no small degree of surprise. Being altogether incompatible with the rights of the United States, it is presumed that it has not been authorized by your Government. I invite your attention to it, in the hope that as you have been charged by your Government with the execution of the late treaty of peace, and are acquainted with its views on all questions connected with it, you will consider yourself authorized to interpose to prevent the progress of an evil which will be so exten-

sively and deeply felt by the citizens of the United States. I have the honor, &c.

JAMES MONROE.

A. ST. JOHN BAKER, Esq., &c.

*Collector of the Customs at Barnstable to the Secretary of the Treasury.*

COLLECTOR'S OFFICE, BARNSTABLE,

July 3, 1815.

SIR: I think it my duty to inform you that the captain of a vessel regularly licensed for the cod fishery has just reported to this office that, on the 19th day of June last, being in longitude 65° 20', north latitude 42° 41', about forty-five miles distant from Cape Sable, he fell in with His Britannic Majesty's sloop-of-war Jaseur, N. Lock, commander, who warned him off, and endorsed his enrolment and license in the words following:

"JUNE 19, 1815.

"Warned off the coast by His Majesty's sloop Jaseur, not to come within sixty miles.

"N. LOCK, Captain."

In consequence of which, the fisherman immediately left the fishing ground, and returned home without completing his fare.

The captain of the fisherman further states, that all the fishing vessels then in sight were warned off in the same manner by the said Captain Lock. I am, sir, very respectfully, &c.

ISAIAH L. GREEN,

Collector.

Hon. A. J. DALLAS.

*Mr. Baker to Mr. Monroe.*

PHILADELPHIA, August 31, 1815.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th ultimo, together with its enclosure, relating to the warning off, to the distance of sixty miles from the coast of Nova Scotia, of some American fishing vessels by His Majesty's brig Jaseur.

This measure was, as you have justly presumed in your note, totally unauthorized by His Ma-

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jesty's Government; and I have the satisfaction to acquaint you that orders have been given by the naval commanders-in-chief on the Halifax and Newfoundland stations, which will effectually prevent the recurrence of any similar interruption to the vessels belonging to the United States engaged in fishing on the high seas.

I have the honor to be, &c.

ANTHONY ST. J. BAKER.

HON. JAMES MONROE, &c.

*Extract of a letter from Mr. Monroe, Secretary of State, to Mr. Adams, dated*

JULY 21, 1815.

Among the acts which we have to complain of with greatest earnestness is a late warning given by a commander of a British sloop-of-war to our fishermen near the coast of the British northern colonies to retire thence to the distance of twenty leagues. This, it is presumed, has been done under a construction of the late Treaty of Peace, which, by being silent on the subject, left that important interest to rest on the ground on which it was placed by the Treaty of 1783. The right to the fisheries required no new stipulation to support it: it was sufficiently secured by the Treaty of 1783. This important object will claim your early attention. The measure thus promptly taken by the British Government, without any communication with this Government, notwithstanding the declaration of our Ministers at Ghent that our right would not be affected by the silence of the treaty, indicates a spirit which excites equal surprise and regret—one which by no means corresponds with the amicable relations established between the two countries by that treaty, or with the spirit with which it has been executed by the United States.

As you are well acquainted with the solidity of our right to the fisheries in question, as well as to those on the Grand Bank and elsewhere on the main ocean, to the limit of a marine league only from the coast, (for the pretension to remove us twenty leagues is too absurd to be discussed,) I shall not dilate on it, especially at this time. It is sufficient to observe here, that the right of the United States to take fish on the coast of Newfoundland, and on the coasts, bays, and creeks, of all other of His Britannic Majesty's dominions in America, and to dry and cure fish in any of the unsettled bays, harbors, and creeks, of Nova Scotia, Magdalen islands, and Labrador—in short, that every right appertaining to the fisheries, which was secured by the Treaty of 1783, stands now as unshaken and perfect as it then did, constituting a vital part of our political existence, and resting on the same solid foundation as our independence itself. In the act of dismemberment and partition, the rights of each party were distinctly defined. So much of territory and incidental rights were allotted to one, so much to the other; and as well might it be said, because our boundary had not been retraced by the late treaty, in every part, that certain portions of our territory had reverted to England, as that our

right to fish, by whatever name secured, had experienced that fate. A liberty of unlimited duration, thus secured, is as much a right as if it had been stipulated by any other term. Being to be enjoyed by one, adjoining the territory allotted by the partition to the other party, it seemed to be the appropriate term. I have made these remarks to show the solid ground on which this right is deemed to rest by this Government, relying on your thorough knowledge of the subject to illustrate and support it in the most suitable manner.

It can scarcely be presumed that the British Government, after the result of the late experiment, in the present state of Europe, and under its other engagements, can seriously contemplate a renewal of hostilities. But it often happens with nations, as well as with individuals, that a just estimate of their interest and duties is not an infallible criterion of their conduct. We ought to be prepared at every point to guard against such an event. You will be attentive to circumstances, and give us timely notice of any danger which may be menaced.

*Extract of a letter from Mr. Adams to Mr. Monroe.*

LONDON, August 15 1815.

I had mentioned the subject of the slaves in my first interview with him, [Lord Castlereagh,] and he had then expressed an intention to refer it to the Commissioners with whom we were then negotiating the commercial convention. But they received no instructions relative to it, and considered their powers as limited to the objects upon which my colleagues were authorized, conjointly with me, to treat. The day before Lord Castlereagh left town, I spoke to him again concerning it. He had just received despatches from Mr. Baker relating to it, but had not had time to read them, and merely told me that, during his absence, Lord Liverpool or Lord Bathurst would attend to the business of his department. After writing the note, of which the copy is enclosed, I requested an interview with Lord Liverpool, for which he appointed last Saturday; but an accident prevented me from then meeting him. I have renewed the request; but as he was not in town when my note was sent, it may be deferred until after Mr. Bago's departure.

[NOTE.—The letter referred to in the above despatch is inserted among the papers relating to the deportation of slaves—Appendix, 2d session, 14th Congress.]

*Extract of a letter from Mr. Adams to Mr. Monroe.*

LONDON, September 5, 1815.

In compliance with your instructions of July 21, I have this day addressed Lord Castlereagh, claiming payment from the British Government for the slaves carried away from Cumberland island and the adjoining waters, after the ratification of the treaty of peace, and in contravention to one of the express stipulations of that treaty.

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My preceding despatches, Nos. 9 and 10, will have informed you of the steps I had taken, by an official letter to Lord Castlereagh, and by a personal interview with the Earl of Liverpool, in relation to this subject, previous to the receipt of your last instructions. The letter to Lord Castlereagh has hitherto remained unanswered; and Lord Liverpool made no attempt to answer either the reasoning of your letter on the subject to Mr. Baker, or the statement of the proof with regard to the meaning of the article, resulting from the manner in which it had been drawn up and agreed to. The substance of what he said was, that, in agreeing to the article as it stands, they had not been aware that it would bind them to restore the slaves whom their officers had enticed away by promises of freedom.

The case of these slaves carried away from Cumberland seems not even to admit of the distinction to which Mr. Baker and Lord Liverpool resorted. Yet the prospect of obtaining either restoration or indemnity appears to me not more favorable in this case than in any others of the same class. If there were any probability that this Government would admit the principle of making indemnity, it would become necessary for me to remark, that the list of slaves transmitted to me, and of which I have sent to Lord Castlereagh a copy, is not an authenticated document.

[For Mr. Adams's letter to Lord Castlereagh, of September 5, 1815, see Appendix to Annals, 2d session, 14th Congress, page 1114.]

*Extract of a letter from Mr. Adams to Mr. Monroe, stating the substance of a conversation with Lord Bathurst.*

LONDON, September 19, 1815.

The transactions to which your instructions of the 21st July have reference were of a character to excite in the highest degree the attention of the Government of the United States. So many simultaneous acts of British officers, at various stations and upon both elements, indicating a marked spirit of hostility, were calculated to inspire serious doubts with regard to the pacific—not to say the amicable—dispositions of the British Government; and the latter part of your despatch made it incumbent upon me, under certain contingencies, to take measures, of which nothing that had occurred here had induced me even to think, as precautions which the course of events might render expedient. The commercial convention had shown how excessively difficult it was for British and American Plenipotentiaries to agree upon any one point in which the mutual interests of the two countries were involved. It had shown how very few points there were upon which any agreement could be made; and it was evident, from everything excepting the personal courtesies of the Prince and his cabinet, that the animosities of the condition from which the two nations had lately emerged had very little subsided. I had, however, before the receipt of your despatch, not a suspicion that

an immediate renewal of hostilities was contemplated; and even now, although I perceive no reason for flattering myself that any satisfaction will be given us upon any one of our causes of complaint, yet I do not apprehend that any act of open and avowed hostility will be sanctioned by the British Government at the present moment. It must however be added that the most—perhaps the only—unequivocal pledge of pacific intentions is the reduction of the fleet, not only to a peace establishment, but to an unusually small one. Your despatch, and the several procedures to which it related, awakened an anxiety that nothing should be omitted which could be of any possible utility to our interests in this quarter.

Having formally renewed the claim of the restitution of the slaves carried away contrary to the engagements of the Treaty of Peace, or for payment of their value as the alternative, there were other objects which I deemed it necessary to present again to the consideration of this Government. In the first instance, it seemed advisable to open them by a verbal communication; and I requested of Lord Bathurst an interview, for which he appointed the 14th instant, when I called at his office in Downing street. I said that, having lately received despatches from you respecting several objects of some importance to the relations between the two countries, my first object in asking to see him had been to inquire whether he had received from Mr. Baker a communication of the correspondence between you and him relative to the surrender of Michilimackinac; to the proceedings of Colonel Nicholls in the southern part of the United States; and to the warning given by the captain of the British armed vessel *Jaseur* to certain American fishing vessels to withdraw from the fishing grounds to the distance of sixty miles from the coast. He answered, that he had received all these papers from Mr. Baker about four days ago; that an answer with regard to the warning of the fishing vessels had immediately been sent; but on the other subjects there had not been time to examine the papers and prepare the answers. I asked him if he could, without inconvenience, state the substance of the answer that had been sent. He said, certainly; it had been that as, on the one hand, Great Britain could not permit the vessels of the United States to fish within the creeks and close upon the shores of the British territories, so, on the other hand, it was by no means her intention to interrupt them fishing anywhere in the open sea, or without the territorial jurisdiction—a marine league from the shore; and, therefore, that the warning given at the place stated, in the case referred to, was altogether unauthorized. I replied, that the particular act of the British commander in this instance being disavowed, I trusted that the British Government, before adopting any final determination upon the subject, would estimate in candor, and in that spirit of amity which my own Government was anxiously desirous of maintaining in our relations with this country, the considerations which I was instructed to pre-

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sent in support of the right of the people of the United States to fish on the whole coast of North America, which they have uniformly enjoyed from the first settlement of the country; that it was my intention to address, in the course of a few days, a letter to him on the subject. He said that they would give due attention to the letter that I should send him, but that Great Britain had explicitly manifested her intention concerning it; that this subject, as I doubtless knew, had excited a great deal of feeling in this country, perhaps much more than its importance deserved; but their own fishermen considered it as an excessive hardship to be supplanted by American fishermen, even upon the very shores of the British dominions. I said that those whose sensibilities had been thus excited had probably not considered the question of right in the point of view in which it had been regarded by us; that they were the sensibilities of a partial and individual interest, stimulated by the passions of competition, and considering the right of the Americans as if it had been a privilege granted to them by the British Government. If this interest was to have weight in determining the policy of the Cabinet, there was another interest liable to be affected in the opposite manner, which would be entitled equally to consideration—the manufacturing interest. The question of right had not been discussed at the negotiation of Ghent. The British Plenipotentiaries had given a notice that the British Government did not intend hereafter to grant to the people of the United States the right to fish, and to cure and dry fish within the exclusive British jurisdiction in America, without an equivalent, as it had been granted by the Treaty of Peace, in 1783. The American Plenipotentiaries had given notice, in return, that the American Government considered all the rights and liberties in and to the fisheries on the whole coast of North America as sufficiently secured by the possession of them, which had always been enjoyed previous to the Revolution, and by the recognition of them in the Treaty of Peace, in 1783; that they did not think any new stipulation necessary for a further confirmation of the right, no part of which did they consider as having been forfeited by the war. It was obvious that the Treaty of Peace of 1783 was not one of those ordinary treaties which, by the usages of nations, were held to be annulled by a subsequent war between the same parties: it was not simply a treaty of peace; it was a treaty of partition between two parts of one nation, agreeing thenceforth to be separated into two distinct Sovereignities. The conditions upon which this was done constituted, essentially, the independence of the United States, and the preservation of all the fishing rights, which they had constantly enjoyed over the whole coast of North America, was among the most important of them. This was no concession, no grant on the part of Great Britain, which could be annulled by a war. There had been, in the same Treaty of 1783, a right recognised in British subjects to navigate the Mississippi.

This right the British Plenipotentiaries at Ghent had considered as still a just claim on the part of Great Britain, notwithstanding the war that had intervened. The American Plenipotentiaries, to remove all future discussion upon both points, had offered to agree to an article expressly confirming both the rights. In declining this, an offer had been made on the part of Great Britain of an article stipulating to negotiate in future for the renewal of both the rights, for equivalents, which was declined by the American Plenipotentiaries, on the express ground that its effect would have been an implied admission that the rights had been annulled. There was, therefore, no article concerning them in the treaty, and the question as to the right was not discussed. I now stated the ground upon which the Government of the United States considered the right as subsisting and unimpaired. The Treaty of 1783 was, in its essential nature, not liable to be annulled by a subsequent war. It acknowledged the United States as a sovereign and independent Power. It would be an absurdity, inconsistent with the acknowledgment itself, to suppose it liable to be forfeited by a war. The whole Treaty of Ghent did constantly refer to it as existing and in full force, nor was an intimation given that any further confirmation of it was supposed to be necessary. It would be for the British Government ultimately to determine how far this reasoning was to be admitted as correct. There were, also, considerations of policy and expediency, to which I hoped they would give suitable attention, before they should come to a final decision upon this point. I thought it my duty to suggest them, that they might not be overlooked. The subject was viewed by my countrymen as highly important, and I was anxious to omit no effort which might possibly have an influence in promoting friendly sentiments between the two nations, or in guarding against the excitement of others. These fisheries afforded the means of subsistence to multitudes of people who were destitute of any other; they also afforded the means of remittance to Great Britain in payment for articles of her manufactures exported to America. It was well understood to be the policy of Great Britain that no unnecessary stimulus should be given to the manufactures in the United States, which would diminish the importance of those from Great Britain. But, by depriving the fishermen of the United States of this source of subsistence, the result must be to throw them back upon the country, and drive them to the resort of manufacturing for themselves; while, on the other hand, it would cut off the means of making remittances in payment for the manufactures of Great Britain.

I thought it best to urge every consideration which might influence a party having other views in that respect, to avoid coming to a collision upon it. I would even urge considerations of humanity. I would say that fisheries, the nature of which was to multiply the means of subsistence to mankind, were usually considered by

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civilized nations under a sort of special sanction. It was a common practice to have them uninterrupted, even in time of war. He knew, for instance, that the Dutch had been, for centuries, in the practice of fishing upon the coasts of this island, and that they were not interrupted in this occupation even in ordinary times of war. It was to be inferred from this, that, to interdict a fishery, which has been enjoyed for ages, far from being a usual act in the peaceable relations between nations, was an indication of animosity, transcending even the ordinary course of hostility in war. He said that no such disposition was entertained by the British Government; that to show the liberality which they had determined to exercise in this case, he would assure me that the instructions which he had given to the officers on that station had been, not even to interrupt the American fishermen who might have proceeded to those coasts, within the British jurisdiction, for the present year; to allow them to complete their fares, but to give them notice that this privilege could no longer be allowed by Great Britain, and that they must not return the next year. It was not so much the fishing, as the drying and curing on the shores, that had been followed by bad consequences. It happened that our fishermen, by their proximity, could get to the fishing stations sooner in the season than the British, who were obliged to go from Europe, and who, upon arriving there, found all the best fishing places, and drying and curing places, pre-occupied. This had often given rise to disputes and quarrels between them, which in some instances had proceeded even to blows. It had disturbed the peace among the inhabitants on the shores; and, for several years before the war, the complaints to this Government had been so great and so frequent that it had been impossible not to pay regard to them. I said that I had not heard of any such complaints before, but that, as to the disputes arising from the competition of the fishermen, a remedy could, surely, with ease, be found for them, by suitable regulations of the Government; and with regard to the peace of the inhabitants, there could be little difficulty in securing it, as the liberty enjoyed by the American fishermen was limited to unsettled and uninhabited places, unless they could, in the others, obtain the consent and agreement of the inhabitants.

The answer which was so promptly sent to the complaint relative to the warning of the fishing vessels by the captain of the *Jaseur*, will probably be communicated to you before you will receive this letter. You will see whether it is so precise, as to the limits within which they are determined to adhere to the exclusion of our fishing vessels, as Lord Bathurst's verbal statement of it to me, namely, to the extent of one marine league from their shores. Indeed, it is to the curing and drying upon the shore that they appear to have the strongest objection. But that, perhaps, is because they know that the immediate curing and drying of the fish, as soon as they are taken, is essential to the value, if not to the very prosecution of the fishery. I have no expecta-

tion that the arguments used by me either in support of our right, or as to the policy of Great Britain, upon this question, will have any weight here. Though satisfied of their validity myself, I am persuaded it will be upon the determination of the American Government and people to maintain the right that the continuance of its enjoyment will alone depend.

*Extract of a letter from Mr. Adams to Mr. Monroe.*

LONDON, September 26, 1815.

I have the honor to enclose a copy of a letter which I have addressed to Lord Bathurst on the subjects referred to in your instructions of 21st July, and concerning which I had, on the 14th instant, an interview with him, the account of which was reported in my last letter. I have not yet received any answer to either of those which I addressed to Lord Castlereagh in relation to the slaves carried away in violation of the first article of the Treaty of Ghent.

*Extract of a letter from Mr. Adams to Earl Bathurst.*

CHARLES STREET, WESTMINSTER,

September 25, 1815.

In the conference with your Lordship, with which I was honored on the 14th instant, I represented to you, conformably to the instructions which I had received from the Government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters incompatible not only with those amicable relations which it is the earnest desire of the American Government to restore and to cultivate, but even with the condition of peace which had been restored between the two countries by the Treaty of Ghent.

It was highly satisfactory to be informed that the conduct of Captain Lock, commander of the sloop-of-war *Jaseur*, in warning American fishing vessels not to come within sixty miles of the coast of His Majesty's possessions in North America, was unauthorized, and that the instructions to the British officers on that station, far from warranting such a procedure, had directed them not even to molest the American fishing vessels which might be found pursuing that occupation during the present year. In offering a just tribute of acknowledgment to the fairness and liberality of these instructions issued from your Lordship's office, there only remained the regret that the execution had been so different from them in spirit, so opposite to them in effect. But, in disavowing the particular act of the officer who had presumed to forbid American fishing vessels from approaching within sixty miles of the American coast, and in assuring me that it had been the intention of this Government, and the instructions given by your Lordship, not even to deprive the American fishermen of any of their accustomed liberties during the present year, your Lordship did also express it as the intention of the British Government to ex-

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clude the fishing vessels of the United States; hereafter, from the liberty of fishing within one marine league of the shores of all the British territories in North America, and from that of drying and curing their fish on the unsettled parts of those territories, and, with the consent of the inhabitants, on those parts which have become settled since the Peace of 1783.

I then expressed to your Lordship my earnest hope that this determination had not been irrevocably taken, and stated the instructions which I had received to present to the consideration of His Majesty's Government the grounds upon which the United States conceive those liberties to stand, and upon which they deem that such exclusion cannot be effected without an infraction of the rights of the American people.

In adverting to the origin of these liberties, it will be admitted, I presume, without question, that, from the time of the settlements in North America, which now constitute the United States, until their separation from Great Britain, and their establishment as distinct sovereignties, these liberties of fishing, and of drying and curing fish, had been enjoyed by them in common with the other subjects of the British empire. In point of principle, they were pre-eminently entitled to the enjoyment; and, in point of fact, they had enjoyed more of them than any other portion of the empire; their settlement of the neighboring country having naturally led to the discovery and improvement of these fisheries, and their proximity to the places where they are prosecuted; and the necessities of their condition having led them to the discovery of the most advantageous fishing grounds, and given them facilities in the pursuit of their occupation in those regions which the remoter parts of the empire could not possess. It might be added, that they had contributed their full share, and more than their share, in securing the conquest from France of the provinces on the coasts on which these fisheries were situated.

It was, doubtless, upon considerations such as these, that in the treaty of peace between His Majesty and the United States of 1783, an express stipulation was inserted, recognising the rights and liberties which had always been enjoyed by the people of the United States in these fisheries, and declaring that they should continue to enjoy the right of fishing on the Grand Bank, and other places of common jurisdiction, and have the liberty of fishing, and of drying and curing their fish within the exclusive British jurisdiction of the North American coasts, to which they had been accustomed whilst themselves formed a part of the British nation. This stipulation was a part of that treaty by which His Majesty acknowledged the United States as free, sovereign, and independent States, and that he treated with them as such.

It cannot be necessary for me to prove, my Lord, that that treaty is not, in its general provisions, one of those which, by the common understanding and usage of civilized nations, is, or can be, considered as annulled by a subsequent war between the same parties. To suppose that

it is would imply the inconsistency and absurdity of a sovereign and independent State, liable to forfeit its right of sovereignty, by the act of exercising it on a declaration of war. But the very words of the treaty attest that the sovereignty and independence of the United States were not considered or understood as grants from His Majesty. They were taken and expressed as existing before the treaty was made, and as then only first formally recognised and acknowledged by Great Britain.

Precisely of the same nature were the rights and liberties in the fisheries to which I now refer. They were, in no respect, grants from the King of Great Britain to the United States; but the acknowledgment of them as rights and liberties enjoyed before the separation of the two countries, and which it was mutually agreed should continue to be enjoyed under the new relations which were to subsist between them, constituted the essence of the article concerning the fisheries. The very peculiarity of the stipulation is an evidence that it was not, on either side, understood or intended as a grant from one sovereign State to another. Had it been so understood, neither could the United States have claimed, nor would Great Britain have granted, gratuitously, any such concession. There was nothing, either in the state of things, or in the disposition of parties, which could have led to such a stipulation, as on the ground of a grant, without an equivalent, by Great Britain.

Yet such is the ground upon which it appears to have been contemplated as resting by the British Government, when their Plenipotentiaries at Ghent communicated to those of the United States their intentions as to the North American fisheries, viz: "That the British Government did not intend to grant to the United States, gratuitously, the privileges formerly granted by treaty to them, of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the British fisheries."

These are the words in which the notice, given by them, is recorded in the protocol of conference of the 8th of August, 1814. To this notice the American Plenipotentiaries first answered, on the 9th of August, that they had no instructions from their Government to negotiate upon the subject of the fisheries; and afterwards, in their note of 10th November, 1814, they expressed themselves in the following terms:

"In answer to the declaration made by the British Plenipotentiaries respecting the fisheries, the undersigned, referring to what passed in the conference of the 9th of August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the treaty of 1783, by which they were recognised, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them."



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If the stipulation of the treaty of 1783 was one of the conditions by which His Majesty acknowledged the sovereignty and independence of the United States; if it was the mere recognition of rights and liberties previously existing and enjoyed, it was neither a privilege gratuitously granted, nor liable to be forfeited by the mere existence of a subsequent war. If it was not forfeited by the war, neither could it be impaired by the declaration of Great Britain, that she did not intend to renew the grant. Where there had been no gratuitous concession, there could be none to renew; the rights and liberties of the United States could not be cancelled by the declaration of Great Britain's intentions. Nothing could abrogate them but the renunciation of them by the United States themselves.

Among the articles of that same treaty of 1783, there is one stipulating that the subjects and citizens of both nations shall enjoy, forever, the right of navigating the river Mississippi, from its sources to the ocean. And although, at the period of the negotiations of Ghent, Great Britain possessed no territory upon that river, yet the British Plenipotentiaries, in their first note, considered Great Britain as still entitled to claim the free navigation of it, without offering for it any equivalent. And, afterwards, when offering a boundary line, which would have abandoned every pretension even to any future possession on that river, they still claimed, not only its free navigation, but a right of access to it, from the British dominions in North America, through the territories of the United States. The American Plenipotentiaries, to foreclose the danger of any subsequent misunderstanding and discussion upon either of these points, proposed an article recognising anew the liberties on both sides. In declining to accept it, the British Plenipotentiaries proposed an article engaging to negotiate, in future, for the renewal of both, for equivalents to be mutually granted. This was refused by the American Plenipotentiaries, on the avowed principle that its acceptance would imply the admission on the part of the United States that their liberties in the fisheries, recognised by the treaty of 1783, had been annulled, which they declared themselves in no manner authorized to concede.

Let it be supposed, my Lord, that the notice given by the British Plenipotentiaries, in relation to the fisheries, had been in reference to another article of the same treaty; that Great Britain had declared she did not intend to grant again, gratuitously, the grant in a former treaty of peace, acknowledging the United States as free, sovereign, and independent States; or, that she did not intend to grant, gratuitously, the same boundary line which she had granted in the former treaty of peace: is it not obvious that the answer would have been that the United States needed no new acknowledgment of their independence, nor any new grant of a boundary line?—that, if their independence was to be forfeited, or their boundary line curtailed, it could only be by their own acts of renunciation, or of cession, and not by the declaration of the intentions of another

Government? And if this reasoning be just, with regard to the other articles of the treaty of 1783, upon what principle can Great Britain select one article, or a part of one article, and say, this particular stipulation is liable to forfeiture by war, or by the declaration of her will, while she admits the rest of the treaty to be permanent and irrevocable? In the negotiation of Ghent, Great Britain did propose several variations of the boundary line, but she never intimated that she considered the line of the treaty of 1783 as forfeited by the war, or that its variation could be effected by the mere declaration of her intentions. She perfectly understood that no alteration of that line could be effected but by the express assent of the United States; and, when she finally determined to abide by the same line, neither the British nor the American Plenipotentiaries conceived that any new confirmation of it was necessary. The Treaty of Ghent, in every one of its essential articles, refers to that of 1783 as being still in force. The object of all its articles, relative to the boundary, is to ascertain with more precision, and to carry into effect, the provisions of that prior compact. The treaty of 1783 is, by a tacit understanding between the parties, and without any positive stipulation, constantly referred to as the fundamental law of the relations between the two nations. Upon what ground, then, can Great Britain assume that one particular stipulation in that treaty is no longer binding upon her?

Upon this foundation, my Lord, the Government of the United States consider the people thereof as fully entitled, of right, to all the liberties in the North American fisheries which have always belonged to them; which, in the treaty of 1783, were, by Great Britain, recognised as belonging to them; and which they never have, by any act of theirs, consented to renounce. With these views, should Great Britain ultimately determine to deprive them of the enjoyment of these liberties by force, it is not for me to say whether, or for what length of time, they would submit to the bereavement of that which they would still hold to be their unquestionable right. It is my duty to hope that such measures will not be deemed necessary to be resorted to on the part of Great Britain; and to state that, if they should, they cannot impair the right of the people of the United States to the liberties in question, so long as no formal and express assent of theirs shall manifest their acquiescence in the privation.

In the interview with which your Lordship recently favored me, I suggested several other considerations, with the hope of convincing your Lordship that, independent of the question of rigorous right, it would conduce to the substantial interests of Great Britain herself, as well as to the observance of those principles of benevolence and humanity which it is the highest glory of a great and powerful nation to respect, to leave to the American fishermen the participation of those benefits which the bounty of nature has thus spread before them; which are so necessary

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to their comfort and subsistence; which they have constantly enjoyed hitherto; and which, far from operating as an injury to Great Britain, had the ultimate result of pouring into her lap a great portion of the profits of their hardy and laborious industry; that these fisheries afforded the means of subsistence to a numerous class of people in the United States, whose habit of life had been fashioned to no other occupation, and whose fortunes had allotted them no other possession; that to another, and, perhaps, equally numerous class of our citizens, they afforded the means of remittance and payment for the productions of British industry and ingenuity, imported from the manufactures of this united kingdom; that, by the common and received usages among civilized nations, fishermen were among those classes of human society whose occupations, contributing to the general benefit and welfare of the species, were entitled to a more than ordinary share of protection; that it was usual to spare and exempt them even from the most exasperated conflicts of national hostility; that this nation had, for ages, permitted the fishermen of another country to frequent and fish upon the coasts of this island, without interrupting them, even in times of ordinary war; that the resort of American fishermen to the barren, uninhabited, and, for the great part, uninhabitable rocks on the coasts of Nova Scotia, the Gulf of St. Lawrence, and Labrador, to use them occasionally for the only purposes of utility of which they are susceptible, if it must, in its nature, subject British fishermen on the same coasts to the partial inconvenience of a fair competition, yet produces, in its result, advantages to other British interests equally entitled to the regard and fostering care of their sovereign. By attributing to motives derived from such sources as these the recognition of these liberties by His Majesty's Government in the treaty of 1783, it would be traced to an origin certainly more conformable to the fact, and surely more honorable to Great Britain, than by ascribing it to the improvident grant of an unrequited privilege, or to a concession extorted from the humiliating compliance of necessity.

In repeating with earnestness, all these suggestions, it is with the hope that from some, or all of them, His Majesty's Government will conclude the justice and expediency of leaving the North American fisheries in the state in which they have heretofore constantly existed, and the fishermen of the United States unmolested in the enjoyment of their liberties.

*Mr. Adams to Mr. Monroe.*

LONDON, October 31, 1815.

SIR: I have the honor to enclose copies of two papers\* received from Lord Bathurst, relative to the taking and carrying away of slaves from the United States by the British naval commanders,

\* For these papers, viz: Lord Bathurst's letters of October 24, [25,] 1815, relating to the deported slaves, see Appendix to Annals, 2d Session 14th Congress.

in violation of the first article of the Treaty of Ghent, and also by an abuse of the privileges allowed to a flag of truce.

I have the honor to be, respectfully, &c.

JOHN Q. ADAMS.

*Mr. Adams to Mr. Monroe.*

LONDON, November 8, 1815.

SIR: Since I had the honor of writing you last, on the 31st ultimo, I have received from Lord Bathurst a note in answer to my letter to him relating to the fisheries; a copy of which is herewith enclosed. I hope shortly to reply to this note, and perceive nothing in it which can render the rights of the United States to the participation in the fisheries in any manner dubious.

It will be for the Government of the United States to determine whether the negotiation proposed by Lord Bathurst will be advisable; and I pray to be honored with the President's instructions on the subject as soon as possible.

I am, with great respect, sir, &c.

JOHN Q. ADAMS.

HON. JAMES MONROE, &c.

*Lord Bathurst to Mr. Adams.*

FOREIGN OFFICE, October 30, 1815.

The undersigned, one of His Majesty's principal Secretaries of State, had the honor of receiving the letter of the Minister of the United States, dated the 25th ultimo, containing the grounds upon which the United States conceive themselves, at the present time, entitled to prosecute their fisheries within the limits of the British sovereignty, and to use British territories for purposes connected with the fisheries.

A pretension of this kind was certainly intimated on a former occasion, but in a manner so obscure that His Majesty's Government were not enabled even to conjecture the grounds upon which it could be supported.

His Majesty's Government have not failed to give to the argument contained in the letter of the 25th ultimo a candid and deliberate consideration; and, although they are compelled to resist the claim of the United States, when thus brought forward as a question of right, they feel every disposition to afford to the citizens of those States all the liberties and privileges connected with the fisheries which can consist with the just rights and interests of Great Britain, and secure His Majesty's subjects from those undue molestations in their fisheries which they have formerly experienced from citizens of the United States. The Minister of the United States appears, by his letter, to be well aware that Great Britain has always considered the liberty formerly enjoyed by the United States of fishing within British limits, and using British territory, as derived from the third article of the treaty of 1783, and from that alone; and that the claim of an independent State to occupy and use at its discretion any portion of the territory of another, without compensation or corresponding indul-

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gence, cannot rest on any other foundation than conventional stipulation. It is unnecessary to inquire into the motives which might have originally influenced Great Britain in conceding such liberties to the United States, or whether other articles of the treaty wherein these liberties are specified did, or did not, in fact, afford an equivalent for them, because all the stipulations profess to be founded on reciprocal advantages and mutual convenience. If the United States derived from that treaty privileges from which other independent nations not admitted by treaty were excluded, the duration of the privileges must depend on the duration of the instrument by which they were granted; and if the war abrogated the treaty, it determined the privileges. It has been urged, indeed, on the part of the United States, that the treaty of 1783 was of a peculiar character, and that, because it contained a recognition of American independence, it could not be abrogated by a subsequent war between the parties. To a position of this novel nature Great Britain cannot accede. She knows of no exception to the rule, that all treaties are put an end to by a subsequent war between the same parties: she cannot, therefore, consent to give to her diplomatic relations with one State a different degree of permanency from that on which her connexion with all other States depends. Nor can she consider any one State at liberty to assign to a treaty made with her such a peculiarity of character as shall make it, as to duration, an exception to all other treaties, in order to found, on a peculiarity thus assumed, an irrevocable title to all indulgences, which have all the features of temporary concessions.

The Treaty of Ghent has been brought forward by the American Minister as supporting, by its reference to the boundary line of the United States, as fixed by the treaty of 1783, the opinion that the treaty of 1783 was not abrogated by the war. The undersigned, however, cannot observe in any one of its articles any express or implied reference to the treaty of 1783 as still in force. It will not be denied that the main object of the Treaty of Ghent was the mutual restoration of all territory taken by either party from the other during the war. As a necessary consequence of such a stipulation, each party reverted to their boundaries as before the war, without reference to the title by which these possessions were acquired, or to the mode in which their boundaries had been previously fixed. In point of fact, the United States had before acquired possession of territories asserted to depend on other titles than those which Great Britain could confer. The Treaty of Ghent, indeed, adverted, as a fact of possession, to certain boundaries of the United States which were specified in the treaty of 1783; but surely it will not be contended that therefore the treaty of 1783 was not considered at an end.

It is justly stated by the American Minister that the United States did not need a new grant of the boundary line. The war did not arise out of a contested boundary; and Great Britain, therefore, by the act of treating with the United

States, recognised that nation in its former dimensions, excepting so far as the *jus belli* had interfered with them; and it was the object of the Treaty of Ghent to cede such rights to territory as the *jus belli* had conferred.

Still less does the free navigation of the Mississippi, as demanded by the British negotiators at Ghent, in any manner express or imply the non-abrogation of the treaty of 1783 by the subsequent war. It was brought forward by them as one of many advantages they were desirous of securing to Great Britain; and if in the first instance demanded without equivalent, it left it open to the negotiators of the United States to claim for their Government, in the course of their conferences, a corresponding benefit. The American Minister will recollect that propositions of this nature were at one time under discussion, and that they were only abandoned at the time that Great Britain relinquished her demand to the navigation of the Mississippi. If, then, the demand on the part of Great Britain can be supposed to have given any weight to the present argument of the United States, the abandonment of that demand must have effectually removed it.

It is by no means unusual for treaties containing recognitions and acknowledgments of title, in the nature of perpetual obligation, to contain, likewise, grants of privileges liable to revocation. The treaty of 1783, like many others, contained provisions of different characters—some in their own nature irrevocable, and others of a temporary nature. If it be thence inferred that, because some advantages specified in that treaty would not be put an end to by the war, therefore all the other advantages were intended to be equally permanent, it must first be shown that the advantages themselves are of the same, or at least of a similar character; for the character of one advantage recognised or conceded by treaty can have no connexion with the character of another, though conceded by the same instrument, unless it arises out of a strict and necessary connexion between the advantages themselves. But what necessary connexion can there be between a right to independence and a liberty to fish within British jurisdiction, or to use British territory? Liberties within British limits are as capable of being exercised by a dependent, as by an independent State, and cannot, therefore, be the necessary consequence of independence.

The independence of a State is that which cannot be correctly said to be granted by a treaty, but to be acknowledged by one. In the treaty of 1783, the independence of the United States was certainly acknowledged, not merely by the consent to make the treaty, but by the previous consent to enter into the provisional articles executed in November, 1782. The independence might have been acknowledged without either the treaty or the provisional articles; but, by whatever mode acknowledged, the acknowledgment is, in its own nature, irrevocable. A power of revoking, or even of modifying it, would be destructive of the thing itself; and, therefore, all such power is necessarily renounced when the

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acknowledgment is made. The war could not put an end to it, for the reason justly assigned by the American Minister, because a nation could not forfeit its sovereignty by the act of exercising it; and for the further reason, that Great Britain, when she declared war on her part against the United States, gave them, by that very act, a new recognition of their independence.

The nature of the liberty to fish within British limits, or to use British territory, is essentially different from the right to independence, in all that may reasonably be supposed to regard its intended duration. The grant of this liberty has all the aspect of a policy temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences, in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places.

When, therefore, Great Britain, admitting the independence of the United States, denies their right to the liberties for which they now contend, it is not that she selects from the treaty, articles, or parts of articles, and says, at her own will, this stipulation is liable to forfeiture by war, and that it is irrevocable; but the principle of her reasoning is, that such distinctions arise out of the provisions themselves, and are founded on the very nature of the grants. But the rights acknowledged by the treaty of 1783 are not only distinguishable from the liberties conceded by the same treaty, in the foundation upon which they stand, but they are carefully distinguished in the treaty of 1783 itself. The undersigned begs to call the attention of the American Minister to the wording of the first and third articles, to which he has often referred, for the foundation of his arguments. In the first article, Great Britain acknowledges an independence already expressly recognised by the Powers of Europe and by herself, in her consent to enter into provisional articles, of November, 1782. In the third article, Great Britain acknowledges the right of the United States to take fish on the banks of Newfoundland and other places, from which Great Britain has no right to exclude an independent nation. But they are to have the liberty to cure and dry them in certain unsettled places within His Majesty's territory. If these liberties, thus granted, were to be as perpetual and indefeasible as the rights previously recognised, it is difficult to conceive that the Plenipotentiaries of the United States would have admitted a variation of language so adapted to produce a different impression; and, above all, that they should have admitted so strange a restriction of a perpetual and indefeasible right as that with which the article concludes, which leaves a right so practical and so beneficial as this is admitted to be, dependent on the will of British subjects, in their character of inhabitants, proprietors, or possessors of the soil, to prohibit its exercise altogether.

It is surely obvious that the word *right* is, throughout the treaty, used as applicable to what

the United States were to enjoy, in virtue of a recognised independence; and the word *liberty* to what they were to enjoy, as concessions strictly dependent on the treaty itself.

The right of the United States has been asserted upon other arguments, which appear to the undersigned not altogether consistent with those that had been previously advanced. It has been argued by the Minister of the United States that the treaty of 1783 did not confer upon the United States the liberty of fishing within British jurisdiction, and using British territory, but merely recognised a right which they previously had; and it has been thence inferred that the recognition of this right renders it as perpetual as that of their independence.

If the treaty of 1783 did not confer the liberties in question, the undersigned cannot understand why, in their support, the point should have been so much pressed, that the treaty is in force notwithstanding the subsequent war. If, as stated by the American Minister, the time of the settlement of North America was the origin of the liberties of the United States in respect to the fisheries, and their independence, as recognised in 1783, was, as further argued by him, the mere recognition of rights and liberties previously existing, (which must have been in virtue of their independence,) it would seem to follow that their independence was recognised from the time of the settlement of North America—for no other period can be assigned. The undersigned is totally unable to collect when the American Minister considers the independence of his country to have commenced; yet this is a point of no small importance, if other rights are to be represented as coeval with it, or dependent on it.

As to the origin of these privileges, in point of fact, the undersigned is ready to admit that, so long as the United States constituted a part of the dominions of His Majesty, the inhabitants had the enjoyment of them, as they had of other political and commercial advantages, in common with his Majesty's subjects. But they had, at the same time, in common with His Majesty's other subjects, duties to perform; and when the United States, by their separation from Great Britain, became released from the duties, they became excluded also from the advantages of British subjects. They cannot, therefore, now claim, otherwise than by treaty, the exercise of privileges belonging to them as British subjects, unless they are prepared to admit, on the part of Great Britain, the exercise of the rights which she enjoyed previous to the separation.

If it be contended, on the part of the United States, that, in consequence of having been once a part of the British dominions, they are now entitled, as of right, to all the privileges which they enjoyed as British subjects, in addition to those which they have as an independent people, the undersigned cannot too strongly protest against such a doctrine; and it must become doubly necessary for Great Britain to hesitate in conceding the privileges which are now the subject of discussion, lest, by such a concession, she should be

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supposed to countenance a principle not less novel than alarming.

But, though Great Britain can never admit the claim of the United States to enjoy those liberties, with respect to the fisheries, as matter of right, she is by no means insensible to some of those considerations with which the letter of the American Minister concludes.

Although His Majesty's Government cannot admit that the claim of the American fishermen to fish within British jurisdiction, and to use the British territory for purposes connected with their fishery, is analogous to the indulgence which has been granted to enemy's subjects engaged in fishing on the high seas, for the purpose of conveying fresh fish to market, yet they do feel that the enjoyment of the liberties, formerly used by the inhabitants of the United States, may be very conducive to their national and individual prosperity, though they should be placed under some modifications; and this feeling operates most forcibly in favor of concession. But Great Britain can only offer the concession in a way which shall effectually protect her own subjects from such obstructions to their lawful enterprises as they too frequently experienced immediately previous to the late war, and which are, from their very nature, calculated to produce collision and disunion between the two States.

It was not of fair competition that His Majesty's Government had reason to complain, but of the preoccupation of British harbors and creeks, in North America, by the fishing vessels of the United States, and the forcible exclusion of British vessels from places where the fishery might be most advantageously conducted. They had, likewise, reason to complain of the clandestine introduction of prohibited goods into the British colonies by American vessels ostensibly engaged in the fishing trade, to the great injury of the British revenue.

The undersigned has felt it incumbent on him thus generally to notice these obstructions, in the hope that the attention of the Government of the United States will be directed to the subject; and that they may be induced, amicably and cordially, to co-operate with His Majesty's Government in devising such regulations as shall prevent the recurrence of similar inconveniences.

His Majesty's Government are willing to enter into negotiations with the Government of the United States for the modified renewal of the liberties in question; and they doubt not that an arrangement may be made satisfactory to both countries, and tending to confirm the amity now so happily subsisting between them.

The undersigned avails himself of this opportunity of renewing to Mr. Adams the assurances of his high consideration. BATHURST.

*Extract of a letter from Mr. Adams, Envoy, &c., at London, to the Secretary of State, dated*

LONDON, January 22, 1816.

I have the honor to enclose my reply to Lord Bathurst's note concerning the fisheries. It has

been delayed by an illness which, for several weeks, disabled me from writing.

*Reply to the note of Lord Bathurst, of October 30, 1815.*

13 CRAVEN STREET, Jan. 22, 1816.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received, and communicated to the Government of the United States, the answer of Lord Bathurst to a letter which he had the honor of addressing to his Lordship on the 25th of September last, representing the grounds upon which the American Government consider the people of the United States entitled to all the rights and liberties in, and connected with, the fisheries on the coasts of North America, which had been enjoyed by them previously to the American Revolution, and which, by the third article of the treaty of peace of 1783, were recognised by Great Britain as rights and liberties belonging to them. The reply to Lord Bathurst's note has been delayed by circumstances which it is unnecessary to detail. It is for the Government of the United States alone to decide upon the proposal of a negotiation upon the subject. That they will at all times be ready to agree upon arrangements which may obviate and prevent the recurrence of those inconveniences stated to have resulted from the exercise by the people of the United States of these rights and liberties, is not to be doubted; but as Lord Bathurst appears to have understood some of the observations in the letter of the undersigned as importing inferences not intended by him, and as some of his Lordship's remarks particularly require a reply, it is presumed that, since Lord Castlereagh's return, it will, with propriety, be addressed to him.

It had been stated, in the letter to Lord Bathurst, that the treaty of peace of 1783 between Great Britain and the United States was of a peculiar nature, and bore in that nature a character of permanency, not subject, like many of the ordinary contracts between independent nations, to abrogation by a subsequent war between the same parties. His Lordship not only considers this as a position of a novel nature, to which Great Britain cannot accede, but as claiming for the diplomatic relations of the United States with her a different degree of permanency from that on which her connexions with all other States depend. He denies the right of any one State to assign to a treaty made with her such a peculiarity of character as to make it in duration an exception to all other treaties, in order to found on a peculiarity thus assumed an irrevocable title to all indulgences which (he alleges) have all the features of temporary concessions; and he adds, in unqualified terms, that "Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the same parties."

The undersigned explicitly disavows every pretence of claiming, for the diplomatic relations between the United States and Great Britain, a degree of permanency different from that of the

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same relations between either of the parties and all other Powers. He disclaims all pretence of assigning to any treaty between the two nations any peculiarity not founded in the nature of the treaty itself. But he submits to the candor of His Majesty's Government whether the treaty of 1783 was not, from the very nature of its subject-matter, and from the relations previously existing between the parties to it, peculiar? Whether it was a treaty which could have been made between Great Britain and any other nation? And, if not, whether the whole scope and objects of its stipulations were not expressly intended to constitute a new and permanent state of diplomatic relations between the two countries, which would not, and could not, be annulled by the mere fact of a subsequent war between them? And he makes this appeal with the more confidence, because another part of Lord Bathurst's note admits that treaties often contain recognitions and acknowledgments in the nature of perpetual obligation, and because it implicitly admits that the whole treaty of 1783 is of this character, with the exception of the article concerning the navigation of the Mississippi, and a small part of the article concerning the fisheries.

The position that "Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the same parties," appears to the undersigned not only novel, but unwarranted by any of the received authorities upon the laws of nations; unsanctioned by the practice and usages of sovereign States; suited, in its tendency, to multiply the incitements to war, and to weaken the ties of peace between independent nations; and not easily reconciled with the admission that treaties not unusually contain, together with articles of a temporary character, liable to revocation, recognitions, and acknowledgments in the nature of perpetual obligation.

A recognition or acknowledgment of title, stipulated by convention, is as much a part of the treaty as any other article; and if all treaties are abrogated by war, the recognitions and acknowledgments contained in them must necessarily be null and void, as much as any other part of the treaty.

If there be no exception to the rule that war puts an end to all treaties between the parties to it, what can be the purpose or meaning of those articles which, in almost all treaties of commerce, are provided expressly for the contingency of war, and which, during the peace, are without operation? On this point, the undersigned would refer Lord Castlereagh to the tenth article of the treaty of 1794 between the United States and Great Britain, where it is thus stipulated: "Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor moneys, which they may have in the public funds, or in the public or private banks, shall ever, in any event of war, or national differences, be sequestered or confiscated." If war puts an end to all treaties, what could the parties to this engagement intend by making it formally an ar-

ticle of the treaty? According to the principle laid down, excluding all exception, by Lord Bathurst's note, the moment a war broke out between the two countries this stipulation became a dead letter, and either State might have sequestered or confiscated those specified properties, without any violation of compact between the nations.

The undersigned believes that there are many exceptions to the rule by which the treaties between nations are mutually considered as terminated by the intervention of a war; that these exceptions extend to all engagements contracted with the understanding that they are to operate equally in war and peace, or exclusively during war; to all engagements by which the parties superadd the sanction of a formal compact to principles dictated by the eternal laws of morality and humanity; and, finally, to all engagements which, according to the expressions of Lord Bathurst's note, are in the nature of perpetual obligation. To the first and second of these classes may be referred the tenth article of the treaty of 1794, and all treaties or articles of treaties stipulating the abolition of the slave trade. The treaty of peace of 1783 belongs to the third.

The reasoning of Lord Bathurst's note seems to confine this perpetuity of obligation to recognitions and acknowledgments of title, and to consider its perpetual nature as resulting from the subject-matter of the contract, and not from the engagement of the contractor. While Great Britain leaves the United States unmolested in the enjoyment of all the advantages, rights, and liberties stipulated in their behalf in the treaty of 1783, it is immaterial to them whether she founds her conduct upon the mere fact that the United States are in possession of such rights, or whether she is governed by good faith and respect for her own engagements. But if she contests any one of them, it is to her engagements only that the United States can appeal as the rule for settling the question of right. If this appeal be rejected, it ceases to be a discussion of right; and this observation applies as strongly to the recognition of independence, and to the boundary line in the treaty of 1783, as to the fisheries. It is truly observed by Lord Bathurst, that in that treaty the independence of the United States was not granted, but acknowledged. He adds, that it might have been acknowledged without any treaty, and that the acknowledgment, in whatever mode made, would have been irrevocable. But the independence of the United States was precisely the question upon which a previous war between them and Great Britain had been waged. Other nations might acknowledge their independence without a treaty, because they had no right, or claim of right, to contest it; but this acknowledgment, to be binding upon Great Britain, could have been made only by treaty, because it included the dissolution of one social compact between the parties, as well as the formation of another. Peace could exist between the two nations only by the mutual pledge of faith to the new social relations established be-

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tween them; and hence it was that the stipulations of that treaty were in the nature of perpetual obligation, and not liable to be forfeited by a subsequent war, or by any declaration of the will of either party without the assent of the other.

In this view, it certainly was supposed by the undersigned that Great Britain considered her obligation to hold and treat with the United States as a sovereign and independent Power as derived only from the preliminary articles of 1782, as converted into the definitive treaty of 1783. The boundary line could obviously rest upon no other foundation. The boundaries were neither recognitions nor acknowledgments of title. They could have been fixed and settled only by treaty, and it is to the treaty alone that both parties have always referred in all discussions concerning them. Lord Bathurst's note denies that there is in any one of the articles of the Treaty of Ghent any express or implied reference to the treaty of 1783, as still in force. It says that, by the stipulation for a mutual restoration of territory, each party necessarily "reverted to their boundaries as before the war, without reference to the title by which their possessions were acquired, or to the mode in which their boundaries had been previously fixed."

There are four several articles of the Treaty of Ghent, in every one of which the treaty of 1783 is not only named, but its stipulations form the basis of the new engagements between the parties for carrying its provisions into execution. These articles are the fourth, fifth, sixth, and seventh. The undersigned refers particularly to the fourth article, where the boundaries described are not adverted to without reference to the title by which they were acquired; but where the stipulation of the treaty of 1783 is expressly assigned as the basis of the claims, both of the United States and of Great Britain, to the islands mentioned in the article.

The words with which the article begins are, "Whereas it was stipulated by the second article in the treaty of peace of one thousand seven hundred and eighty-three, between His Britannic Majesty and the United States of America, that the boundary of the United States should comprehend all islands," &c.

It proceeds to describe the boundaries as there stipulated; then alleges the claim of the United States to certain islands, as founded upon one part of the stipulation, and the claim of Great Britain as derived from another part of the stipulation; and agrees upon the appointment of two commissioners "to decide to which of the two contracting parties the islands belong, in conformity with the true intent of the said treaty of peace of 1783." The same expressions are repeated in the fifth, sixth, and seventh articles; and the undersigned is unable to conceive by what construction of language one of the parties to those articles can allege that, at the time when they were signed, the treaty of 1783 was, or could be, considered at an end.

When, in the letter of the undersigned to Lord

Bathurst, the treaty of 1783 was stated to be a compact of a peculiar character, importing in its own nature a permanence not liable to be annulled by the fact of a subsequent war between the parties, the recognition of the sovereignty of the United States and the boundary line were adduced as illustrations to support the principle; the language of the abovementioned articles in the Treaty of Ghent, and the claim brought forward by Great Britain, at the negotiation of it, for the free navigation of the Mississippi, were alleged as proofs that Great Britain herself so considered it, excepting with regard to a small part of the single article relative to the fisheries; and the right of Great Britain was denied thus to select one particular stipulation in such a treaty, and declare it to have been abrogated by the war. The answer of Lord Bathurst denies that Great Britain has made such a selection, and affirms that the whole treaty of 1783 was annulled by the late war. It admits, however, that the recognition of independence and the boundaries was in the nature of perpetual obligation; and that, with the single exception of the liberties in and connected with the fisheries within British jurisdiction on the coasts of North America, the United States are entitled to all the benefits of all the stipulations in their favor contained in the treaty of 1783, although the stipulations themselves are supposed to be annulled. The fishing liberties within British jurisdiction alone are considered as a temporary grant, liable not only to abrogation by war, but, as it would seem from the tenor of the argument, revocable at the pleasure of Great Britain, whenever she might consider the revocation suitable to her interest. The note affirms that "the liberty to fish within British limits, or to use British territory, is essentially different from the right to independence in all that can reasonably be supposed to regard its intended duration; that the grant of this liberty has all the aspect of a policy, temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences, in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places."

The undersigned is induced, on this occasion, to repeat his Lordship's own words, because, on a careful and deliberate review of the article in question, he is unable to discover in it a single expression indicating, even in the most distant manner, a policy, temporary or experimental, or having the remotest connexion with military, naval, or commercial conveniences or inconveniences to Great Britain. He has not been inattentive to the variation in the terms, by which the enjoyment of the fisheries on the main ocean, the common possession of both nations, and the same enjoyment within a small portion of the special jurisdiction of Great Britain, are stipulated in the article, and recognised as belonging to the people of the United States. He considers the term *right* as importing an advantage to be

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enjoyed in a place of common jurisdiction, and the term *liberty* as referring to the same advantage, incidentally leading to the borders of a special jurisdiction. But, evidently, neither of them imports any limitation of time. Both were expressions no less familiar to the understandings than dear to the hearts of both the nations parties to the treaty. The undersigned is persuaded it will be readily admitted that, wherever the English language is the mother tongue, the term *liberty*, far from including in itself either limitation of time or precariousness of tenure, is essentially as permanent as that of *right*, and can, with justice, be understood only as a modification of the same thing; and as no limitation of time is implied in the term itself, so there is none expressed in any part of the article to which it belongs. The restriction at the close of the article is itself a confirmation of the permanency which the undersigned contends belongs to every part of the article. The intention was, that the people of the United States should continue to enjoy all the benefits of the fisheries which they had enjoyed theretofore, and, with the exception of drying and curing fish on the island of Newfoundland, all that British subjects should enjoy thereafter. Among them, was the liberty of drying and curing fish on the shores, then uninhabited, adjoining certain bays, harbors, and creeks. But, when those shores should become settled, and thereby become private and individual property, it was obvious that the liberty of drying and curing fish upon them must be conciliated with the proprietary rights of the owners of the soil. The same restriction would apply to British fishermen; and it was precisely because no grant of a new right was intended, but merely the continuance of what had been previously enjoyed, that the restriction must have been assented to on the part of the United States. But, upon the common and equitable rule of construction for treaties, the expression of one restriction implies the exclusion of all others not expressed; and thus the very limitation which looks forward to the time when the unsettled deserts should become inhabited, to modify the enjoyment of the same liberty conformably to the change of circumstances, corroborates the conclusion that the whole purport of the compact was permanent and not temporary—not experimental, but definitive.

That the term *right* was used as applicable to what the United States were to enjoy in virtue of a recognised independence, and the word *liberty* to what they were to enjoy as concessions strictly dependent on the treaty itself, the undersigned not only cannot admit, but considers as a construction altogether unfounded. If the United States would have been entitled, in virtue of a recognised independence, to enjoy the fisheries to which the word *rights* is applied, no article upon the subject would have been required in the treaty. Whatever their right might have been, Great Britain would not have felt herself bound, without a specific article to that effect, to acknowledge it as included among the append-

ages to their independence. Had she not acknowledged it, the United States must have been reduced to the alternative of resigning it, or of maintaining it by force; the result of which must have been war—the very state from which the treaty was to redeem the parties. That Great Britain would not have acknowledged these rights as belonging to the United States in virtue of their independence, is evident; for, in the cession of Nova Scotia by France to Great Britain, in the twelfth article of the Treaty of Utrecht, it was expressly stipulated that, as a consequence of that cession, French subjects should be thenceforth “excluded from all kind of fishing in the said seas, bays, and other places on the coasts of Nova Scotia; that is to say, on those which lie towards the east, within thirty leagues, beginning from the island commonly called Sable, inclusively, and thence stretching along towards the southwest.” The same exclusion was repeated, with some slight variation, in the treaty of peace of 1763; and, in the eighteenth article of the same treaty, Spain explicitly renounced all pretensions to the right of fishing “in the neighborhood of the island of Newfoundland.” It was not, therefore, as a necessary result of their independence that Great Britain recognised the right of the people of the United States to fish on the banks of Newfoundland, in the “Gulf of St. Lawrence,” and at all other places in the sea where “the inhabitants of both countries used, at any time theretofore, to fish.” She recognised it, by a special stipulation, as a right which they had theretofore enjoyed as a part of the British nation, and which, as an independent nation, they were to continue to enjoy unmolested; and it is well known that, so far from considering it as recognised by virtue of her acknowledgment of independence, her objections to admitting it at all formed one of the most prominent difficulties in the negotiation of the peace of 1783. It was not asserted by the undersigned, as Lord Bathurst’s note appears to suppose, that either the right or the liberty of the people of the United States in these fisheries was indefeasible. It was maintained that, after the recognition of them by Great Britain, in the treaty of 1783, neither the right nor the liberty could be forfeited by the United States, but by their own consent; that no act or declaration of Great Britain alone could divest the United States of them; and that no exclusion of them from the enjoyment of either could be valid, unless expressly stipulated by themselves, as was done by France in the Treaty of Utrecht, and by France and Spain in the peace of 1763.

The undersigned is apprehensive, from the earnestness with which Lord Bathurst’s note argues to refute inferences which he disclaims, from the principles asserted in his letter to his Lordship, that he has not expressed his meaning in terms sufficiently clear. He affirmed that, previous to the independence of the United States, their people, as British subjects, had enjoyed all the rights and liberties in the fisheries, which form the subject of the present discussion; and that, when the



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separation of the two parts of the nation was consummated, by a mutual compact, the Treaty of Peace defined the rights and liberties which, by the stipulation of both parties, the United States in their new character were to enjoy. By the acknowledgment of the independence of the United States, Great Britain bound herself to treat them, thenceforward, as a nation possessed of all the prerogatives and attributes of sovereign power. The people of the United States were, thenceforward, neither bound in allegiance to the Sovereign of Great Britain, nor entitled to his protection, in the enjoyment of any of their rights, as his subjects. Their rights and their duties, as members of a State, were defined and regulated by their own constitutions and forms of government. But there were certain rights and liberties which had been enjoyed by both parts of the nation, while subjects of the same sovereign, which it was mutually agreed they should continue to enjoy unmolested; and, among them, were the rights and liberties in those fisheries. The fisheries on the banks of Newfoundland, as well in the open seas as in the neighboring bays, gulfs, and along the coasts of Nova Scotia and Labrador, were, by the dispensations and the laws of nature, in substance, only different parts of one fishery. Those of the open sea were enjoyed not as a common and universal right of all nations; since the exclusion from them of France and Spain, in whole or in part, had been expressly stipulated by those nations, and no other nation had, in fact, participated in them. It was, with some exceptions, an exclusive possession of the British nation; and in the Treaty of Separation it was agreed that the rights and liberties in them should continue to be enjoyed by that part of the nation which constituted the United States; that it should not be a several, but, as between Great Britain and the United States, a common fishery. It was necessary, for the enjoyment of this fishery, to exercise it in conformity to the habits of the species of game of which it consisted. The places frequented by the fish were those to which the fishermen were obliged to resort, and these occasionally brought them to the borders of the British territorial jurisdiction. It was also necessary, for the prosecution of a part of this fishery, that the fish, when caught, should be immediately cured and dried, which could only be done on the rocks or shores adjoining the places where they were caught; the access to these rocks and shores, for those purposes, was secured to the people of the United States, as incidental and necessary to the enjoyment of the fishery; it was little more than an access to naked rocks and desolate sands; but it was as permanently secured as the right to the fishery itself. No limitation was assigned of time. Provision was made for the proprietary rights which might at a distant and future period arise by the settlement of places then uninhabited; but no other limitation was expressed or indicated by the terms of the treaty, and no other can, either from the letter or spirit of the article, be inferred.

Far, then, from claiming the general rights and  
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privileges belonging to British subjects within the British dominions, as resulting from the Treaty of Peace of 1783, while at the same time asserting their exemption from the duties of a British allegiance, the article in question is itself a proof that the people of the United States have renounced all such claims. Could they have pretended generally to the privileges of British subjects, such an article as that relating to the fisheries would have been absurd. There was in the treaty of 1783 no express renunciation of their rights to the protection of a British Sovereign. This renunciation they had made by their declaration of independence on the 4th of July, 1776; and it was implied in their acceptance of the counter-renunciation of sovereignty in the treaty of 1783. It was precisely because they might have lost their portion of this joint national property, to the acquisition of which they had contributed more than their share, unless a formal article of the treaty should secure it to them, that the article was introduced. By the British municipal laws, which were the laws of both nations, the property of a fishery is not necessarily in the proprietor of the soil where it is situated. The soil may belong to one individual, and the fishery to another. The right to the soil may be exclusive, while the fishery may be free, or held in common. And thus, while in the partition of the national possessions in North America, stipulated by the treaty of 1783, the jurisdiction over the shores washed by the waters where this fishery was placed was reserved to Great Britain, the fisheries themselves, and the accommodations essential to their prosecution, were, by mutual compact, agreed to be continued in common.

In submitting these reflections to the consideration of His Majesty's Government, the undersigned is duly sensible to the amicable and conciliatory sentiments and dispositions towards the United States manifested at the conclusion of Lord Bathurst's note, which will be met by reciprocal and corresponding sentiments and dispositions on the part of the American Government. It will be highly satisfactory to them to be assured that the conduciveness of the object to the national and individual prosperity of the inhabitants of the United States operates with His Majesty's Government as a forcible motive to concession. Undoubtedly, the participation in the liberties of which their right is now maintained, is far more important to the interests of the people of the United States than the exclusive enjoyment of them can be to the interests of Great Britain. The real, general, and ultimate interests of both the nations on this object, he is fully convinced are the same. The collision of particular interests which heretofore may have produced altercations between the fishermen of the two nations, and the clandestine introduction of prohibited goods by means of American fishing vessels, may be obviated by arrangements duly concerted between the two Governments. That of the United States, he is persuaded, will readily co-operate in any measure to secure those ends compatible with the enjoyment by the people of

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the United States of the liberties to which they consider their title as unimpaired, inasmuch as it has never been renounced by themselves.

The undersigned prays Lord Castlereagh to accept the renewed assurance of his high consideration.

JOHN Q. ADAMS.

Lord Viscount CASTLEREAGH.

*Extracts of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, Jan. 31, 1816.

In my interview with Lord Castlereagh on the 25th instant we had much conversation, as well upon the topics which have formed the subjects of discussion with this Government during his absence, as upon those concerning which I have recently been honored with your instructions. As propositions for a formal negotiation had been made on both sides, I thought it necessary to ascertain whether this Government would consider the full power under which I had acted jointly with my late colleagues as yet sufficient for concluding with me any further conventional arrangements. At the time when we signed the commercial convention of the 3d July last, we had given notice that the objects upon which we had been instructed to treat under that full power, were much more extensive than those upon which we found it then practicable to come to an agreement; but as the British Plenipotentiaries informed us that their powers would terminate on the conclusion of that convention, I told them that I should make no further propositions, unless by virtue of subsequent instructions from my own Government; and, in that case, should address them in the ordinary channel of the Foreign Department. I now inquired of Lord Castlereagh whether this Government was now disposed to enter upon a further negotiation, and, if they were, whether they would expect me to produce a new full power? With regard to the latter point Lord Castlereagh said, that if I should declare that the Government of the United States still considered the joint power under which I had treated heretofore as in force, to authorize me to treat separately, and that the proposals which I should make were by the instructions of my Government, he thought it would not be necessary for me to produce a new power. As this answer is not perfectly explicit, and as it requires of me a declaration of what I must rather infer than positively know, I would request, as the safest course, that a new full power may be transmitted to me.

Lord Castlereagh inquired what were the subjects upon which we should be desirous of treating. I mentioned, as the first and most important, that which relates to seamen; observing, the great anxiety which was felt in the United States on this subject, the principal source of the late contest between the two countries, and that from which the greatest danger of future dissensions was to be apprehended, unless some provision should be made during the peace to prevent the

recurrence of the same evils whensoever a new war may take place.

I noticed the new recommendation in the President's Message to Congress, of a law for confining the navigation of American vessels to American seamen, and the solicitude manifested by the President that it may lead to the total discontinuance of the practice of impressment in our vessels. Lord Castlereagh expressed his satisfaction, at what he termed this change of policy on the part of the United States; but, far from appearing to think it a motive for Great Britain to stipulate by treaty to forbear the practice of impressment, he intimated the opinion that this measure of the United States, if fairly adopted, and properly carried into execution, would rather make any arrangement between the two nations unnecessary. He said that its consequences must be, that there would be no British seamen on board of American vessels to take, and, if so, that the practice of taking them would cease of course. He remarked that, as the inconvenience did not exist during peace, it might be doubted whether it was the most seasonable time for a discussion, upon which there was such a different and opposite view in point of principle entertained by the two Governments. And, although I urged that the time of peace, when there was no immediate interest of either party at stake, and when the feelings on both sides would be cool and composed, might be peculiarly adapted to a mutual effort for closing this fruitful source of dissensions, he was not inclined to that opinion. He intimated that there was still in England a very strong and highly irritable feeling on this subject; that the Government could not incur the responsibility of concession in relation to it; that it would be inexpedient to wait until the new policy of the United States for encouraging their own native seamen should fully have been developed, and, by its consequences, have proved that Great Britain would not need impressment to preserve herself from the loss of her own seamen. He added, nevertheless, that the British Government would always be ready to hear proposals on this subject, and to adopt arrangements which might guard against abuses in the exercise of their rights.

I shall give you, in my next, the sequel of this conference, the result of which has confirmed all the opinions, with regard to the policy of this Government, which I gave you in my last despatch. There appears to me no prospect that, under the present ministry, any conventional arrangement for renouncing the practice of impressment will be attainable; and you will observe the new argument which Lord Castlereagh derives against such a stipulation, from the measures recommended by the President for excluding foreign seamen from our service. There is no immediate prospect of any maritime war, nor, indeed, any remote discernible prospect of such a war, with the United States neutral to it. As the occurrence, however, is not impossible, and as the outrage of that practice can never be tolerated by a nation of the strength and resources to which the

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United States are rising, it cannot too forcibly be urged upon their conviction, that the only means of protecting their seafaring citizens in the enjoyment of their rights, will consist in the energy with which they shall be asserted.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, February 8, 1816.

In relation to the fisheries little was said. He told me that he had, the evening before, read my note to him concerning them; that the British Government would adhere to their principle respecting the treaty, and to the exclusive rights of their territorial jurisdiction; but that they had no wish to prevent us from fishing, and would readily enter into a negotiation for an arrangement on this subject.

[NOTE.—See ante, for Mr. Adams's letters of 17th February, 1816, to the Secretary of State and Lord Castlereagh.]

*Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Feb. 27, 1816.

SIR: It being represented, by your letter of the 8th of November, that the British Government was disposed to regulate, in concert with the United States, the taking of fish on the coasts, bays, and creeks, of all His Britannic Majesty's dominions in America, and the curing and drying of fish by their citizens on the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen islands, and Labrador, in such manner as to promote the interest of both nations, you will consider this letter an authority and instruction to negotiate a convention for these purposes.

I have the honor to be, &c.

JAMES MONROE.

*Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Feb. 27, 1816.

SIR: Since my last, of the 10th of December, I have had the honor to receive your letter of November 21, with those of the 12th, 19th, 26th and 30th of September, the 7th and 31st of October, and 8th of November. With the latter, a copy of Lord Bathurst's reply to your note of September 25, on the fisheries, was likewise received.

It appears by these communications that although the British Government denies our right of taking, curing, and drying fish within their jurisdiction, and on the coast of the British provinces in North America, it is willing to secure to our citizens the liberty stipulated by the Treaty of 1783, under such regulations as will secure the benefit to both parties, and will likewise prevent the smuggling of goods into the British provinces by our vessels engaged in the fisheries.

It is hoped that the reply which you intimate you intended giving to Lord Bathurst's note may have produced some change in the sentiments of the British Government on this interesting sub-

ject; it is, nevertheless, thought proper to enclose you an instruction, to be shown to the British Government, authorizing you to negotiate a convention providing for the objects contemplated.

It is very important that this trust should be executed in a manner not to weaken our right, which, it is presumed, may be done with the concurrence of the British Government, either by the reservation of mutual rights, or making the instrument a remedy for abuses.

As to the manner in which the injuries complained of by the British Government are to be remedied, you will be able, in aid of your own knowledge of the subject, to obtain better information than I can communicate.

The British project will show the nature and extent of these injuries, and it will be your object to make the remedy as harmless to our citizens and as safe to the public rights as possible.

I have the honor to be, &c.

JAMES MONROE.

*Extract of a letter from Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, May 24, 1816.

A hope is entertained that you will have arranged with the British Government the difference respecting the fisheries before this reaches you. Should you not have been able to do it, you will endeavor to comprise it in the general arrangement which you are authorized to make, on the principles stated in my letter of the 27th of February.

*Extract of a letter from Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, July 8, 1816.

Mr. Bagot has received a power to arrange the difference respecting the taking, and curing, and drying fish on the shores of the British colonies; but whether it authorizes such an arrangement as will be useful and satisfactory to us, I am as yet uninformed.

*Extract of a letter from Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Aug. 13, 1816.

On the other subject [the fisheries] Mr. Bagot offered to secure to us the right in question on the Labrador shore, between Mount Joli and the Bay of Esquimaux, near the entrance of the strait of Belleisle. It was necessary for me to seek detailed information of the value of this accommodation from those possessing it at Marblehead and elsewhere, which I did; the result of which was, that it would be more for our advantage to commence at the last-mentioned point, and to extend the right, eastward, through the Strait of Belleisle, as far along the Labrador coast as possible. To this he objected; offering, then, an alternative on the shore of the island of Newfoundland, to commence at Cape Ray, and extend, east, to the Ramea islands. Of the value of this coast I am likewise ignorant. The negotiation must, therefore, be again suspended until I obtain the information requisite to enable me to act in it.

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It is probable that the arrangement of these two interests will again rest with you. The advantage of it, as you are already authorized to treat on other important subjects, is obvious.

At the commencement of our conferences, Mr. Bagot informed me of an order which had been issued by Admiral Griffith to the British cruisers, to remove our fishing vessels from the coasts of those provinces, which he would endeavor to have revoked pending the negotiation. His attempt succeeded. I shall endeavor to have this revocation extended, so as to afford the accommodation desired until the negotiation is concluded. All the information which has been, or may be, obtained on this subject shall be transmitted to you.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, August 24, 1816.

On Wednesday last I had an interview with Lord Castlereagh, in which he informed me that this Government declined entering upon any negotiation relative to the commercial intercourse between the United States and the British colonies in the West Indies; that they were averse to any discussion relative to blockades, and the other conflicting pretensions of neutral and belligerent rights; and that they were willing to receive any proposals that we may wish to offer respecting the intercourse by land between the United States and the British continental colonies, and respecting seamen; but there was a manifest reluctance to negotiate even upon these points. With regard to the West Indies, he said it was understood by this Government that the United States would be perfectly free to adopt any countervailing regulations, either of prohibition or of additional duties, that they might think advisable; that Great Britain would have no right to complain of them; that the determination in this instance arose altogether from that of adhering to their colonial system, of the wisdom of which he spoke as being, in his own mind, not unquestionable, but from which it was not thought expedient now to depart.

*Extract of a letter from Mr. Adams to Mr. Monroe, Secretary of State, dated*

LONDON, September 18, 1816.

You will perceive, by all my late despatches, that there is no prospect of doing anything here in the way of a negotiation upon objects of commerce. I addressed yesterday to Lord Castlereagh a note, renewing the proposal to negotiate; the object of which is to have the refusal explicitly signified in writing. In my last interview with Lord Castlereagh he did unequivocally decline negotiation upon the trade between the United States and the British colonies in the West Indies, and upon all the questions relating to neutral rights in time of maritime war. He said they were willing to receive any proposition respecting seamen, and respecting the inland in-

tercourse between the United States and the British colonies in North America. I told him I should repeat the proposal for treating in a note. He expressed a wish that I would not mention in the note the neutral questions at all. I was somewhat surprised at the objection, but promised him I would give it full consideration before I sent in the note. I did accordingly take ample time for reflection, and have concluded that I ought not only to include them in the note, but to urge with earnestness the reasons which make it peculiarly desirable that the two Governments should come to an understanding upon those points before the recurrence of a maritime war.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, September 27, 1816.

I have the honor of enclosing, herewith, a copy of the note which I have addressed to Lord Castlereagh, renewing the proposal for the negotiation of a treaty of commerce. From the determination of this Government, as communicated to me in my personal interview with him on the 21st of August, it is to be expected that they will decline treating upon the subject of our trade with the British colonies in the West Indies, and upon the questions relating to neutral interests during maritime war. They may profess to be willing to receive specific proposals relative to seamen, and to our inland intercourse with their colonies in North America, but it is not probable that upon either of those subjects they will agree to anything that can be satisfactory to you; nor shall I think it expedient to conclude any separate arrangement concerning them, excluding the others, without further instructions to that effect. In the conversations that I have had with Lord Castlereagh, he has given me very distinctly to understand that, with regard to seamen, if they should even agree to the proposed stipulation of excluding from the respective naval and merchant services the native citizens and subjects of each other, they will not understand it as implying or intending an engagement to renounce the practice of taking men from our vessels in the event of a future maritime war. In the instructions hitherto transmitted to me, it is not insisted that such a renunciation should be included in the article; yet I cannot but suppose it was expected that, if the article should be agreed to, it would be with at least a tacit understanding that the practice of impressment shall be abandoned.

*Mr. Adams to Lord Castlereagh.*

13 CRAVEN STREET, Sept. 17, 1816.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has the honor of renewing to Lord Castlereagh the proposal which he has been instructed to make, on the part of the Government of the United States, for the negotiation of a treaty of commerce, embracing all the principal

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objects most interesting to the friendly and commercial intercourse between the two nations. He has already exhibited to his Lordship the authority with which he has been furnished by the American Government for that purpose, and has fully stated to him the motives which induced this proposal. They are all founded in the anxious desire of the American Government to cultivate the harmony between the two nations, and to concert, by engagements of mutual accommodation, such arrangements of the points from which differences have unfortunately arisen heretofore, or which might have a tendency to produce them hereafter, as may be satisfactory to both parties, guard against future misunderstandings, and promote that amicable temper and disposition which can alone perpetuate the peace and friendship dictated by the clearest and highest interests both of Great Britain and of the United States.

It will be recollected by Lord Castlereagh that the commercial convention of 3d July, 1815, was not considered at the time of its conclusion as the ultimate or definitive arrangement of the commercial relations between the high contracting parties. Other objects, besides those upon which the agreement was completed, were discussed in the course of that negotiation. Others yet, including all or most of those upon which Great Britain is now again invited to treat, were presented to the attention of the British Plenipotentiaries, but postponed, in consideration of peculiar circumstances then operating, and which have happily since been done away. In bringing them again to the view of the British Cabinet, the undersigned has the honor of distinctly specifying the several objects upon which the American Government repeats the proposal to enter into further reciprocal commercial stipulations, of suggesting the urgent additional motives for desiring them which have arisen since that period, and of exposing the liberal principles upon which they propose that this supplementary treaty should be founded.

1. *The commerce between the United States and the British colonies in North America and in the West Indies.*

From the relative geographical position of those countries; from the nature of their respective productions; and from the wants on either side, which may be most advantageously, if not exclusively, supplied by the other, this commerce is not only of the greatest convenience to both parties, but, in some respects, and on many occasions, it is of the first necessity to the colonies. At the time when the commercial convention of 3d July, 1815, was negotiated, this commerce was open to vessels of the United States. The ports of the British colonies in the West Indies are still accessible, under certain restrictions, to French, Spanish, Dutch, Danish, and Swedish vessels; and while the ports of every nation in the West Indies (Great Britain alone excepted) are in like manner accessible to American vessels, they have been, and still are, by new regula-

tions, enforced since the conclusion of that convention, rigorously excluded from the British ports. This exclusion of all participation in the advantage of carrying between the two countries the articles of a commerce mutually beneficial to both parties, has not only the aspect of a policy peculiarly pointed against the United States, but it defeats, in a great degree, the principle of equalizing the advantages of the commerce between the two countries, by equalizing the duties and charges upon the vessels of both, in the direct intercourse between them; for while British vessels, after performing a direct voyage from Europe to the United States, are there received upon terms of equality with those of the United States, they now enjoy the exclusive benefit of resorting to an intermediate market in the West Indies, while the vessels of the United States are restricted to the direct interchange to and from Europe. The result of which is, that British vessels enjoy in the ports of the United States important advantages, even over the vessels of the United States themselves. It must be obvious that this cannot long be tolerated; that, if the commerce with those parts of the British dominions be not placed on a footing of reciprocity, similar restraints will become indispensable on the part of the United States. Such counter-vailing restraints were proposed at the last session of Congress, and postponed, in the hope that satisfactory arrangements might be made, before the next meeting, to prevent a recurrence to a system of commercial hostility, inconsistent with the interests of both nations, inauspicious to the amicable relations now existing between them, and repugnant to the most earnest wishes of the American Government. In the arrangements proposed, they do not contemplate any interference, on their part, with the colonial monopoly of Great Britain. It is not asked that she should renounce the right of prohibiting the importation into her colonies, from the United States, of whatever articles she may think fit; but that the commerce which, for their and her own advantage, Great Britain allows between them and the United States, should be placed on the same footing of reciprocity as the direct trade between Great Britain and the United States was intended to be placed by the convention of 3d July, 1815.

While on this subject, the undersigned cannot but remark the extraordinary measures relating to the commercial intercourse between the United States and the British colonies in North America and in the West Indies, adopted since the conclusion of the commercial convention of 3d July, 1815. In all of them, very heavy duties have been imposed upon the importation of American produce, even when carried in British ships. A heavy duty of exportation has been laid, in the province of Nova Scotia, upon plaster of Paris, an article for which there is no other market than the United States. And in the province of Upper Canada, an act of the Provincial Legislature having first vested in the Lieutenant Governor and Council the power of regulating the commercial intercourse between that pro-

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vince and the United States, that body did, on the 18th of April last, issue an order, imposing heavy duties upon many articles of the growth or manufacture of the United States, with an addition of twelve per cent. on all those duties upon importation in American vessels, and a tonnage duty of twelve shillings and six pence per ton upon every vessel exceeding five tons burden entering any port or harbor of the province, and belonging to citizens of the United States. The inland commerce between the United States and Upper Canada is believed to be of paramount importance to the province; but, were it even equally important to the United States, measures like these can be viewed in no other light than as efforts to engross, exclusively, the whole of the trade on one side. It would be far more agreeable to the American Government to settle this intercourse by amicable concert, than to be left under the necessity of meeting a system of exclusion by countervailing regulations.

*2. Seamen.*

It is proposed to stipulate that neither the United States nor Great Britain shall employ, in their naval or merchant service, native citizens or subjects of the other party, with the exception of those already naturalized, of whom the number is very small. From the well known fact that the wages of seamen, in time of peace, are invariably higher in the American service, of both descriptions, than in the British, it is apparent that the advantage of this stipulation will be almost entirely on the side of Great Britain. Although obviously proper that it should be reciprocal, it is offered, not as an engagement from which the United States expect to derive any advantage, in itself, but as the means to Great Britain of reserving to herself the services of all her own native seamen, and of removing forever the necessity of resorting to means of force, either by her naval officers, to take men from the vessels of the United States, or by the United States, to resist the renewal of that practice, in the event of any future maritime war to which they may be neutral. In adopting the principle proposed, the American Government are prepared to secure its faithful execution by any reciprocal regulation which may be deemed necessary, consistent with their constitution and the spirit of their laws.

*3. Neutral and belligerent rights.*

It is equally desirable, in the view of the American Government, to arrange, at this time, every question relating to neutral rights, particularly those concerning blockade; contraband of war; visits at sea of merchant vessels by ships of war; the trade with the colonies of enemies, and between them and the parent country, and the trade from one port of an enemy to another. The tendency of discordant principles upon these points to embroil neutral and belligerent States with each other has been shown by the melancholy experience of ages. The frequent departures, during the most recent wars, from all ac-

knowledgeed principles founded on the general usages of nations, have still more unsettled whatever reliance might heretofore have been placed upon their authority. A time of peace, when the feelings of both parties are free from the excitement of any momentary interest, and when the operation of the principles to be sanctioned by mutual compact depends upon contingencies which may give either party the first claim to the stipulated rights of the belligerent or of the neutral, must be more favorable to the amicable adjustment of these questions than a time of actual war, under circumstances when the immediate interests of each party are engaged in opposition to those of the other. Whether Great Britain or the United States will be first engaged in a maritime war with any third party, cannot now be foreseen; but it is of the deepest interest to the permanency of peace and friendship between them that they should come to an explicit understanding with each other upon the points here referred to, before the occurrence of any such event on either side. It is not the desire of the American Government to propose, upon these subjects, any innovation upon principles often recognised by Great Britain herself, in her treaties with other Powers. They wish only, by a mutual compact now formed, to guard against the collisions, which the recollection of the past so forcibly admonishes the rulers of both nations to obviate, if possible, for the future.

*4. Slaves carried away from the United States, by British officers, after the peace.*

As the construction given by His Majesty's Government to the first article in the Treaty of Ghent, in reference to the slaves carried away from the United States by British officers, after the ratification of the peace, is so directly at variance with the construction which the American Government think alone applicable to it, the undersigned has been further instructed to propose that this question should be submitted to the decision of some friendly sovereign. This reference is suggested by provisions in the Treaty of Ghent itself, applicable to the contingency of differences in other instances; and it is conceived that, when such differences exist, no better mode can be adopted for settling them in a satisfactory manner.

Should His Majesty's Government think proper to accept this proposal for a negotiation, upon the points with regard to which the general wishes of the Government of the United States have been here frankly exposed, the undersigned will be ready to enter into further communications with any person who may be authorized to confer with him for the purpose of such a negotiation. If the offer should not be deemed acceptable, he requests the honor of as early an answer as may be convenient.

The undersigned prays Lord Castlereagh to accept the assurance of his high consideration.

JOHN QUINCY ADAMS.

LORD CASTLEREAGH.

*Relations with Great Britain.*

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, October 5, 1816.

Lord Castlereagh left London this week upon a visit to Ireland. Previous to his departure I received from him a letter, of which a copy is herewith enclosed. Although the absence of several of the Cabinet Ministers is alleged as the motive for postponing the answer to my note of the 17th September, and although his Lordship promises to lay the subject suggested in it before his colleagues immediately after his return, there is no reason to expect that any departure from the policy already determined upon will take place. It is probable that you will receive this despatch about the time of the meeting of Congress. Any measures in the spirit, and with the object of those proposed at the last session, and then postponed, may be now adopted without hesitation. My own entire conviction is, that the operation of such measures, will be the only possible means of convincing this Government of the expediency of relaxing from the rigor of their exclusive colonial system. It is, and uniformly has been, my opinion, that the result of the equalization of duties will be to the advantage of Great Britain, and to our disadvantage. But the principle was sanctioned by an act of Congress before the convention of 3d July, 1815, was negotiated. The benefit of the convention to us, if any, is in the India trade; but as its duration is to be so short, the only chance of having it renewed, at the end of its four years, with additional articles of more liberality, will be effective counteracting regulations in respect to the commerce with the British colonies in the West Indies.

*Lord Castlereagh to Mr. Adams, dated*

FOREIGN OFFICE, Sept. 28, 1816.

SIR: I very much regret that the absence from London at this season of the year of several of the Prince Regent's Ministers will preclude me from returning as early an answer to your note of the 17th as I should wish, under the sense I entertain of the great importance of the several objects to which it invites the attention of this Government.

I have myself obtained the permission of the Prince Regent to make a short excursion to Ireland on my private affairs, but I shall certainly return to London by the middle of November, and shall lose no time, as soon after that period as my colleagues shall be reassembled, to bring the various objects referred to in your note under their deliberation.

I request you will accept the assurances of the high consideration with which I have the honor to be, sir, your most obedient, humble servant.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, December 24, 1816.

Yesterday morning I received a note from Lord Castlereagh requesting me to call upon him; and

he informed me that, as he was going out of town for a few days, he had sent for me to say that he had not forgotten his promise to me before his departure for Ireland; that the proposal in my note of 27th September for a commercial negotiation should be considered immediately after his return; that two cabinet councils had already been held on the subject, and, as soon as the objects could be sufficiently matured for the proper authority to be given to him to treat, I should hear from him again. It would seem from this, as if the proposal would be so far accepted as to enter upon a negotiation; but I beg leave to point your attention to an article in the *Courier* of last evening, stating the proceeding in the island of Dominica, after the late hurricane, including a letter from Earl Bathurst, dated the 28th of September last, and an advertisement from the Victualling Office, for a supply of flour, to be delivered at several of the West India islands, from the United States; both in the same paper.

*Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Feb. 5, 1817.

SIR: I have the honor to forward to you, herewith, a copy of my correspondence with Mr. Bagot, in relation to the fisheries on the coast of Labrador, &c.; from which you will perceive that our negotiation on that interesting subject has not had the desired result.

Mr. Bagot professes, on the part of his Government, the most conciliatory disposition in regard to this affair, and it is yet to be hoped that it may be satisfactorily settled. With this view, the President intends to renew the negotiation as soon as he can obtain the information necessary to enable him to decide what arrangement would be best calculated to reconcile the interests of both parties, which he hopes to do in the course of a few months. In the mean time, he expects that no measures will be taken by the British Government to alter the existing state of things, and that it will be in your power to obtain the renewal of the order to the naval officer commanding on that station not to interrupt or disturb our fishermen during the approaching season.

You will see the importance of an early attention to this subject, as the fishing season is fast approaching. I have the honor to be, &c.

JAMES MONROE.

*Mr. Bagot to Mr. Monroe.*

WASHINGTON, November 27, 1816.

SIR: In the conversation which I had with you a few days ago, upon the subject of the negotiation into which the British Government is willing to enter, for the purpose of affording to the citizens of the United States such accommodation for their fishery, within the British jurisdiction, as may be consistent with the proper administration of His Majesty's dominions, you appeared to apprehend that neither of the propositions which I had the honor to make to you

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upon this subject would be considered as affording in a sufficient degree the advantages which were deemed requisite.

In order that I may not fail to make the exact nature of these propositions clearly understood, and that I may fully explain the considerations by which they have been suggested, it may perhaps be desirable that I should bring under one view the substance of what I have already had the honor of stating to you in the several conferences which we have held upon this business.

It is not necessary for me to advert to the discussion which has taken place between Earl Bathurst and Mr. Adams. In the correspondence which has passed between them, you will have already seen, in the notes of the former, a full exposition of the grounds upon which the liberty of drying and fishing within the British limits, as granted to the citizens of the United States by the treaty of 1783, was considered to have ceased with the war, and not to have been revived by the late treaty of peace.

You will also have seen therein detailed the serious considerations affecting not only the prosperity of the British fishery, but the general interests of the British dominions, in matters of revenue as well as government, which made it incumbent upon His Majesty's Government to oppose the renewal of so extensive and injurious a concession, within the British sovereignty, to a foreign State, founded upon no principle of reciprocity or adequate compensation whatever. It has not been thought necessary to furnish me with additional argument upon this point. I therefore confine myself, upon the present occasion, to a brief repetition of what I have already, at different periods, had the honor to submit to your consideration upon the subject of an arrangement by which it is hoped practically to reconcile the different views of our respective Governments.

It will be in your recollection that, early in the month of July last, I had the honor to acquaint you that I had received instructions from my Government to assure you that, although it had been felt necessary to resist the claim which had been advanced by Mr. Adams, the determination had not been taken in any unfriendly feeling towards America, or with any illiberal wish to deprive her subjects of adequate means of engaging in the fisheries; but that, on the contrary, many of the considerations which had been urged by Mr. Adams, on behalf of the American citizens formerly engaged in this occupation, had operated so forcibly in favor of granting to them such a concession as might be consistent with the just rights and interests of Great Britain, that I had been furnished with full powers from His Royal Highness the Prince Regent to conclude an arrangement upon the subject, which it was hoped might at once offer to the United States a pledge of His Royal Highness's good will, and afford to them a reasonable participation of those benefits of which they had formerly the enjoyment.

It being the object of the American Govern-

ment, that, in addition to the right of fishery, as declared by the first branch of the fourth article of the treaty of 1783 permanently to belong to the citizens of the United States, they should also enjoy the privilege of having an adequate accommodation, both in point of harbors and drying ground, on the unsettled coasts within the British sovereignty, I had the honor to propose to you that that part of the southern coast of Labrador which extends from Mount Joli, opposite the eastern end of the island of Anticosti, in the Gulf of St. Lawrence, to the bay and isles Esquimaux, near the western entrance of the straits of Belleisle, should be allotted for this purpose; it being distinctly agreed that the fishermen should confine themselves to the unsettled parts of the coast, and that all pretensions to fish or dry within the maritime limits, or on any other of the coasts of British North America, should be abandoned.

Upon learning from you, some weeks afterwards, that, from the information which you had received upon the subject of this coast, you were apprehensive that it would not afford, in a sufficient degree, the advantages required, I did not delay to acquaint you that I was authorized to offer another portion of coast, which it was certainly not so convenient to the British Government to assign, but which they would nevertheless be willing to assign, and which, from its natural and local advantages, could not fail to afford every accommodation of which the American fishermen could stand in need. I had then the honor to propose to you as an alternative, that, under similar conditions, they should be admitted to that portion of the southern coast of Newfoundland which extends from Cape Ray eastward to the Ramea islands, or to about the longitude of 57° west of Greenwich.

The advantages of this portion of coast are accurately known to the British Government; and, in consenting to assign it to the uses of the American fishermen, it was certainly conceived that an accommodation was afforded as ample as it was possible to concede, without abandoning that control within the entire of His Majesty's own harbors and coasts which the essential interests of His Majesty's dominions required. That it should entirely satisfy the wishes of those who have for many years enjoyed, without restraint, the privilege of using for similar purposes all the unsettled coasts of Nova Scotia and Labrador, is not to be expected; but, in estimating the value of the proposal, the American Government will not fail to recollect that it is offered without any equivalent, and notwithstanding the footing upon which the navigation of the Mississippi has been left by the Treaty of Ghent, and the recent regulations by which the subjects of His Majesty have been deprived of the privileges, which they so long enjoyed, of trading with the Indian nations within the territory of the United States.

I have the honor to be, &c.

CHARLES BAGOT.

HON. JAMES MONROE,  
*Secretary of State.*



*Relations with Great Britain.**The Secretary of State to Mr. Bagot.*

DEPARTMENT OF STATE, Dec. 30, 1816.

SIR: I have had the honor to receive your letter of the 27th of November and to submit it to the consideration of the President.

In providing for the accommodation of the citizens of the United States engaged in the fisheries on the coast of His Britannic Majesty's colonies, on conditions advantageous to both parties, I concur in the sentiment that it is desirable to avoid a discussion of their respective rights, and to proceed, in a spirit of conciliation, to examine what arrangement will be adequate to the object. The discussion which has already taken place between our Governments has, it is presumed, placed the claim of each party in a just light. I shall, therefore, make no remark on that part of your note which relates to the right of the parties, other than by stating that this Government entered into this negotiation on the equal ground of neither claiming nor making any concession in that respect.

You have made two propositions, the acceptance of either of which must be attended with the relinquishment of all other claims on the part of the United States, founded on the first branch of the fourth article of the treaty of 1783. In the first, you offer the use of the territory on the Labrador coast, lying between Mount Joli and the bay of Esquimaux, near the entrance of the strait of Belleisle; and, in the second, of such part of the southern coast of the island of Newfoundland as lies between Cape Ray and the Ram-  
mea islands.

I have made every inquiry that circumstances have permitted, respecting both these coasts, and find that neither would afford to the citizens of the United States the essential accommodation which is desired; neither having been much frequented by them heretofore, nor likely to be in future. I am compelled, therefore, to decline both propositions.

I regret that it has not been in my power to give an earlier answer to your note; you will, however, have the goodness to impute the delay to a reluctance to decline any proposition which you had made, by the order of your Government, for the arrangement of an interest of such high importance to both nations, and to the difficulty of obtaining all the information necessary to guide this Government in the decision.

I have the honor to be, &c.

JAMES MONROE.

HON. CHARLES BAGOT.

*Mr. Bagot to Mr. Monroe.*

WASHINGTON, December 31, 1816.

SIR: I have had the honor to receive your letter of yesterday's date, acquainting me that neither of the propositions which I had submitted to your consideration, upon the subject of providing for the citizens of the United States engaged in the fisheries some adequate accommodation for their pursuit upon the coast of His Majesty's territories, having been found to afford the essential

conveniences which are desired, you are compelled to decline them.

The object of His Majesty's Government, in framing these propositions, was to endeavor to assign to the American fishermen, in the prosecution of their employment, as large a participation of the conveniences afforded by the neighboring coasts of His Majesty's settlements as might be reconcilable with the just rights and interests of His Majesty's own subjects, and the due administration of His Majesty's dominions; and it was earnestly hoped that either one or the other of them would have been found to afford, in a sufficient degree, the accommodation which was required.

The wish of His Royal Highness the Prince Regent to extend to the citizens of the United States every advantage which, for the purposes in view, can be derived from the use of His Majesty's coasts, has no other limit than that which is necessarily prescribed by a regard to the important considerations to which I have adverted. His Royal Highness is willing to make the utmost concession which these considerations will admit; and, in proof of the sincerity of this disposition, I have received His Royal Highness's instructions to acquaint you that if, upon examination of the local circumstances of the coasts, which I have had the honor to propose, the American Government should be of opinion that neither of them, taken separately, would afford, in a satisfactory degree, the conveniences which are deemed requisite, His Royal Highness will be willing that the citizens of the United States should have the full benefit of both of them, and that, under the conditions already stated, they should be admitted to each of the shores which I have had the honor to point out.

In consenting to assign to their use so large a portion of His Majesty's coasts, His Royal Highness is persuaded that he affords an unquestionable testimony of his earnest endeavor to meet, as far as possible, the wishes of the American Government, and practically to accomplish, in the amplest manner, the objects which they have in view. The free access to each of these tracts cannot fail to offer every variety of convenience which the American fishermen can require in the different branches of their occupation; and it will be observed, that an objection which might possibly have been felt to the acceptance of either of the propositions, when separately taken, is wholly removed by the offer of them conjointly; as, from whatever quarter the wind may blow, the American vessels engaged in the fishery will always have the advantage of a safe port under their lee.

His Royal Highness conceives that it is not in His Royal Highness's power to make a larger concession than that which is now proposed, without injury to the essential rights of His Majesty's dominions, and some of the chief interests of His Majesty's own subjects. But it will be a source of sincere satisfaction to His Royal Highness if, in the arrangement which I have the honor to submit, the citizens of the United States shall

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find, as His Royal Highness confidently believes that they will find, ample means of continuing to pursue their occupation with the convenience and advantage which they desire.

I have the honor to be, &c.

CHARLES BAGOT.

*The Secretary of State to Mr. Bagot.*

DEPARTMENT OF STATE, Jan. 7, 1817.

SIR: I have had the honor to receive your letter of the 31st of December, proposing an accommodation of the difference between our Governments relative to the fisheries, comprised in the first branch of the fourth article of the treaty of 1783, by the allotment of both the coasts comprised in your former propositions.

Having stated, in my letter of the 30th of December, that, according to the best information which I had been able to obtain, neither of those coasts had been much frequented by our fishermen, or was likely to be so in future, I am led to believe that they would not, when taken conjointly, as proposed in your last letter, afford the accommodation which is so important to them, and which it is very satisfactory to find it is the desire of your Government that they should possess. From the disposition manifested by your Government, which corresponds with that of the United States, a strong hope is entertained that further inquiry into the subject will enable His Royal Highness the Prince Regent to ascertain that an arrangement, on a scale more accommodating to the expectation of the United States, will not be inconsistent with the interest of Great Britain.

In the meantime, this Government will persevere in its measures for obtaining such further information as will enable it to meet yours in the conciliatory views which are cherished on both sides. I have the honor to be, &c.

JAMES MONROE.

HON. CHARLES BAGOT.

*Mr. Adams to the Secretary of State, dated*

LONDON, March 20, 1817.

SIR: The day before yesterday I had an interview with Lord Castlereagh, when he informed me that the British Government had come to a determination respecting the commercial part of the proposals for the negotiation of a further treaty, which I had made last September; that they were still not prepared to abandon their ancient colonial system, but they were willing to extend to the United States the benefits of the free port act to the same extent that they were now enjoyed by the vessels of European nations, and to give a partial admission of our vessels to the island of Bermuda and to Turk's Island. And, with regard to the intercourse between the United States and the adjoining British provinces, they would renew a proposal heretofore made, founded altogether upon the principle of reciprocity; which proposal he read to me from a paper

which he said was not quite finished, but which would be sent to me in the course of the next day. Last evening I received a note from Mr. Hamilton, the Under Secretary of State in the Foreign Department, with a draught of four articles, a copy of which, hastily made, I now enclose, as Mr. Everett leaves town this morning. The part read to me by Lord Castlereagh was the fourth article, excepting the last paragraph.

I do not think it possible to make anything out of these articles to which I can, under my present instructions, agree. I therefore enclose copies of them, with the request of immediate further instructions. Lord Castlereagh informed me that they had received information that the act of Congress prohibiting the clearance of foreign vessels for ports to which vessels of the United States are not admitted had passed; and he repeated the assurance that this Government considered it as perfectly proper, and as giving them no cause of complaint or dissatisfaction. It seems to me, however, that the very slight and partial concessions in the enclosed articles are intended to counteract its effects; and this opinion contributes to caution me against subscribing to them without your further orders. Lord Castlereagh's offer is to make them supplementary to the convention of July 3, 1815, and to be in force for the same time.

I am, with great respect, &c.

JOHN QUINCY ADAMS.

ART. 1. His Britannic Majesty consents to extend to the United States the provisions of the free port act, as established by the 45th George III, c. 57, (except as far as relates to negro slaves, which, under the abolition acts, can no longer be lawfully exported from any British possessions to any foreign country;) that is to say, that any sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by subjects of the United States, may import into any of the free ports in His Majesty's possessions in the West Indies, from the United States, any of the articles enumerated in the above act, being of the growth or production of the United States, and any coin, bullion, diamonds, and precious stones; and the said articles being of the growth or production of the United States, and also all other articles imported into the said free ports, by virtue of this convention, from the United States, shall be subject, in all respects, to the same rules, regulations, and restrictions, and shall enjoy the same advantages as to re-exportation, as are now applied to similar articles when imported by authority of the said act from any other foreign country, and re-exported from the said possessions of His Majesty. His Britannic Majesty further consents, that any vessel of the United States, as above described, may export from any of the said ports to the United States, rum, of the produce of any British colony or possession, and also all manner of goods, wares, or merchandise, which shall have been legally imported into those possessions of His Majesty in which the said free ports are

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established, except masts, yards, or bowsprits, pitch, tar, and turpentine, and also except such iron as shall have been brought from the British colonies or plantations in America.

And whereas, by an act passed in the 48th year of His Majesty's reign, cap. 125, rice, grain, and flour, are added to the articles previously allowed to be imported into the said free ports, it is agreed that those articles may be imported from the United States into the said free ports, in vessels of the United States, as above described; and it is agreed, on the part of the United States, that any facilities granted in consequence of this convention to American vessels, in His Majesty's said colonies and possessions, shall be reciprocally granted, in the ports of the United States, to British vessels of a similar description engaged in the intercourse so allowed to be carried on; and that if, at any future period, during the continuance of this convention, His Britannic Majesty should think fit to grant any further facilities to vessels of the United States in the said colonies and possessions, British vessels trading between the said colonies and possessions and the United States shall enjoy in the ports of the latter equal and reciprocal advantages.

It is further agreed, that articles imported into the said free ports of the United States, by virtue of this convention, shall pay the same duties as are or may be payable upon similar articles when imported into the said free ports from any foreign country. And the same rule shall be observed on the part of the United States, in regard to all duties chargeable upon all such articles as may, by virtue of this convention, be exported from the said free ports to the United States. But His Britannic Majesty reserves to himself the right to impose higher duties upon all articles so allowed to be imported into the said free ports from the United States, or from any other foreign country, than are or may be chargeable upon all similar articles when imported from any of His Majesty's possessions.

ART. 2. His Britannic Majesty engages to allow the vessels of the United States to import into the island of Bermuda the following articles, to wit: tobacco, pitch, tar, turpentine, hemp, flax, masts, yards, bowsprits, staves, heading boards, and plank, timber, shingles, and lumber of any sort; bread, biscuit, flour, peas, beans, potatoes, wheat, rice, oats, barley, and grain of any sort; such commodities being the growth or production of the territories belonging to the United States of America; and to export from the said island to the United States, in vessels of the said States, any goods or commodities whatsoever, which are now by law allowed to be exported from His Majesty's colonies and possessions in the West Indies to any foreign country or place in Europe; and also sugar, molasses, coffee, cocoanuts, ginger, and pimento; and also all goods, the growth, produce, or manufacture of the United Kingdom of Great Britain and Ireland, upon the same terms, and subject to the same duties only as would affect similar articles when imported

from the United States into Bermuda, or exported from Bermuda to the United States, in British ships. And it is agreed, on the part of the United States, that a similar equality shall prevail, in the ports of the said States, with regard to all British vessels trading in similar articles between the United States and the island of Bermuda.

ART. 3. It is agreed that vessels of the United States may resort to Turk's Island for the purpose of taking in cargoes of salt for the United States; and that the vessels so resorting to the said islands shall be allowed to import tobacco and cotton wool, the produce of the said United States, upon the same terms, and subject to the same duties, as British ships when engaged in a similar intercourse. It is agreed, on the part of the United States, that a similar equality shall prevail in the ports of the said States, with regard to all British vessels trading in the same articles between the United States and the said Turk's Island.

ART. 4. It is agreed that the navigation of all lakes, rivers, and water communications, the middle of which is, or may be, the boundary between His Britannic Majesty's territories on the continent of North America and the United States, shall, with the exception hereinafter mentioned, at all times be free to His Majesty's vessels and those of the citizens of the United States. The inhabitants of His Britannic Majesty's territories in North America, and the citizens and subjects of the United States, may freely carry on trade and commerce, by land or inland navigation, as aforesaid, in goods and merchandise the growth, produce, or manufacture, of the British territories in Europe or elsewhere, or of the United States, respectively, on the said continent, (the countries within the limits of the Hudson's Bay Company only excepted;) and no other or higher duties, or tolls, or rates of carriage or portage, than which are, or shall be, payable by natives, respectively, shall be taken or demanded on either side. All goods or merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce above mentioned, be carried into the said United States, in the manner aforesaid, by His Britannic Majesty's subjects; and such goods or merchandise shall be subject to no other or higher duties than would be payable by citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the United States; and, in like manner, all goods and merchandise the growth, produce, or manufacture, of the United States, whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of the commerce above mentioned, be carried into the same by land, or by means of such lakes, rivers, and water communications, as above mentioned, by the citizens of the United States; and such goods and merchandise shall be subject to no other or higher duties than would be payable by His Majesty's subjects on the importation of the same from Europe into the said territories.

No duty shall be levied, by either party, on

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peltries or furs which may be brought, in the manner aforesaid, by land or inland navigation, from the said territories of another; but tolls or rates of ferriage may be demanded and taken, in manner above mentioned, on such peltries or furs.

It is further agreed that nothing in this article contained, as to the navigation of rivers, lakes, or water communications, shall extend to give a right of navigation upon or within the same, in those ports where the middle is not the boundary between His Britannic Majesty's territories and the United States of America.

*Extract of a letter from Mr. Adams to Lord Castlereagh, dated*

13 CRAVEN STREET, April 21, 1817.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received the four projected articles for a supplement to the commercial convention of 3d July, 1815, sent him by direction of Lord Castlereagh, and has transmitted them for the consideration of his Government.

By a letter of instruction from the Secretary of State of the United States of the 5th February last, the undersigned is informed that the negotiation between him and Mr. Bagot, in relation to the fisheries on the North American coast, had not been brought to the desired result; that it is yet to be hoped, however, that it may be satisfactorily settled; that, with this view, it was the President's intention to renew the negotiation as soon as he could obtain the information necessary to ascertain what arrangement would be best calculated to reconcile the interests of both parties, which he hoped to do in the course of a few months; that, in the meantime, he relied that no measures would be taken by His Majesty's Government to alter the existing state of things; and, particularly, that the order to the naval officer commanding on that station, not to interrupt or disturb the American fishermen during the approaching season, would be renewed.

The undersigned has the honor of renewing to Lord Castlereagh the assurance of his high consideration.

JOHN QUINCY ADAMS.

*Extract of a letter from Lord Castlereagh to Mr. Adams, dated*

FOREIGN OFFICE, May 7, 1817.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, in reply to Mr. Adams's note of the 21st ultimo, has the honor to acquaint him that, as soon as the proposition which Mr. Bagot was authorized, in July last, to make to the Government of the United States, for arranging the manner in which American citizens might be permitted to carry on the fisheries within the British limits, had been by them declined, viz: in the month of February, the same was immediately notified by His Majesty's Minister in America to the British Admiral commanding at Halifax;

the effect of which notification was to revive the orders which Mr. Bagot had taken upon himself to suspend, in the expectation that the discussions in which he was then employed with the American Government would have led to a satisfactory issue.

These discussions having failed of success, and the orders above alluded to being consequently now in full force, the British Government cannot but feel some reluctance again to suspend them, without being in possession of more precise grounds for expecting an adjustment. Persuaded, however, from the official communication received from Mr. Adams, that it is not only the sincere desire of the President of the United States to come to an amicable arrangement, but also that he, being already in possession of the views of Great Britain, is now led to entertain a strong expectation that a settlement which shall reconcile the interests of both parties may, without any material delay, be effectuated, the Prince Regent, under these impressions, is willing to give to the American Government this additional proof of his earnest wish that the negotiation should proceed, under circumstances the most favorable to a speedy and amicable conclusion, by acceding to the application of the Government of the United States, as brought forward by Mr. Adams. Instructions will accordingly be expedited to the naval commanders on the American station to suspend the execution of the said orders during the approaching season. Ample opportunity will thus be afforded for coming to an amicable arrangement, more particularly as it appears that the American Secretary, in February last, had it in contemplation to offer, for the consideration of the British Government, some specific proposition on the subject, which Mr. Bagot did not then feel himself authorized to take, *ad referendum*, but which he has since been instructed to receive, and transmit for the opinion of his Court.

*Mr. Rush, acting as Secretary of State, to Mr. Bagot.*

DEPARTMENT OF STATE, May 30, 1817.

SIR: I had the honor to receive, and have laid before the President, your note of the 27th of this month.

In answer to it, I have the honor to state that this Government is not yet prepared to make known, in any definite and final shape, the nature and extent of the accommodation desired by its citizens engaged in the fisheries along the coast of His Britannic Majesty's dominions, according to the invitation held out, by order of the Prince Regent, in your note. At the same time, I am directed by the President to inform you that he recognises, in the terms of this invitation, not less than in the general scope of your note, a spirit of friendly accommodation, which this Government, not foregoing rights which it feels itself bound to look to, will, nevertheless, be desirous, in the fullest extent, to reciprocate.

On the return of the President from a tour through part of the United States, which he is

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now upon the eve of commencing, it is expected that this Department will be enabled to offer such propositions as, taking for their basis the principles stated in your note, it is confidently hoped may end in an adjustment of this important interest, upon terms reconcilable with the views of both nations, and serve to strengthen the harmony and good understanding which it is so desirable to cultivate and preserve between them.

I have the honor to be, &c.

RICHARD RUSH.

The Right Hon. CHARLES BAGOT.

*Mr. Rush, Acting Secretary of State, to Mr. Bagot.*

DEPARTMENT OF STATE, August 4, 1818.

SIR: It becomes my duty to address you upon a subject of deep interest to all those citizens of this country who are concerned in the fisheries.

By representations made to this Department, it appears that, at the commencement of the present fishing season, twenty sail of fishing vessels, of from twenty-five to forty-five tons burden, belonging to ports of the United States, were fitted out and sailed for the purpose of fishing on the western bank. That, while on their way, a number of them were compelled, by storm, to put into a harbor at Ragged Island, near Shelburne light-house. That, while here, they were boarded by an officer of the customs, who demanded and received light-money from them, notwithstanding the circumstances of compulsion and distress under which they had entered the port. That they afterwards proceeded to the bank, where, after remaining many weeks, they completed their fares of fish, and commenced their return to the United States. That, meeting with another severe storm upon their return, they were again forced to seek shelter in a British port, a few leagues to the westward of Halifax. That in this port they were captured by an armed barge, despatched from the British sloop of war *Dee*, Captain Chambers, and the next morning ordered for Halifax, where they all arrived on the 9th of June. That the unfortunate crews have been exposed to peculiar inconveniences and hardships; and that those who desired to return to their homes were refused passports towards facilitating that end, from the proper officers, to whom they made application.

For further particulars connected with the above facts, I have the honor to enclose you an extract of a letter to this Department from the collector of Boston, dated June the 30th. It will be seen that it is not a case involving unsettled questions between the two countries in relation to the fisheries, but which it is so confidently hoped are in a train of satisfactory and amicable arrangement. It is, on the other hand, distinctly said that the boats, far from taking a fish in any waters claimed as British waters, took them all at the distance of many leagues from the coast; while the other alleged facts would seem to forbid the imputation of their having entered a British harbor from any other than a lawful and necessary motive.

Should the facts as represented prove to be well founded, the President feels persuaded that your Government will not fail to take such measures, as well towards redressing the evil complained of, in the present instance, as towards preventing the recurrence of one of the like nature, as are due to justice and the harmony and good understanding which so happily subsist between the two nations.

I pray you, sir, to accept, &c.

*Mr. Bagot to Mr. Rush.*

WASHINGTON, August 8, 1817.

SIR: I had yesterday the honor to receive your letter of the 4th instant, acquainting me with the representations which had been made to the Department of State in relation to the seizure, by His Majesty's ship *Dee*, of certain American fishing vessels found in the harbors of Port Negro and Ragged Island, upon the coast of Nova Scotia, and transmitting to me the extract of a letter upon the subject from the collector of the customs at Boston.

Should the circumstances of this seizure, as they have been represented to the American Government, prove to be correct, I can have no hesitation in giving you every assurance that His Majesty's Government will willingly take measures for the prompt redress of the injuries to which it may have led, and for the prevention of their recurrence; but the representations which I have received upon the subject from the Commander-in-chief of His Majesty's squadron on the Halifax station differ so essentially in point of fact from those which have been made to the American Government, that I have every reason to hope that, upon a proper investigation of the transaction, it will not be found to involve any just cause of complaint.

I have the honor to transmit to you, enclosed, the copy of a letter from the captain of His Majesty's ship *Dee* to the commander of His Majesty's squadron on the coast of Nova Scotia, reporting the grounds upon which he had deemed it to be his duty to detain these vessels, together with a copy of the orders under which he has acted.

By these papers you will perceive that the vessels in question were in the habit of occupying, and were, at the time of their seizure, actually occupying, for the purposes of their fishery, the settled harbors of His Majesty's dominions, in violation of the orders at all times enforced against all foreign vessels detected in making similar encroachments, and of which it is not to be supposed that the masters of these vessels could have been ignorant.

The proceedings which have been instituted upon the captured vessels will necessarily lead to a complete investigation of all the circumstances under which they were detained; and there can be no doubt that the merits of the whole case, which appear to rest altogether upon questions of fact, will be then fully ascertained.

I have the honor to be, &c.

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By Sir DAVID MILNE, K. C. B. and K. W. N., Rear Admiral of the Blue, and Commander-in-chief of His Majesty's ships and vessels employed, and to be employed, in North America, and on the lakes of Canada, &c., &c.

You are hereby required and directed to proceed, in His Majesty's ship under your command, to Halifax; and, having received on board a pilot at that port, you will repair and cruise between Sambro light-house and Cape Sable, using every means in your power for the protection of the revenue, as also the fisheries on that coast, against the encroachment of foreigners.

On your meeting with any foreign vessel fishing or at anchor in any of the harbors or creeks in his Majesty's North American provinces, or within our maritime jurisdiction, you will seize and send such vessel so trespassing to Halifax for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress; acquainting me with the cause of such seizure, and every other particular, to enable me to give all information to the Lords Commissioners of the Admiralty.

You are to come within sight of signals from Sambro light-house every fourteen days, if the wind and weather will permit, and wait eight hours at that distance. You will continue on this service for six weeks from your sailing from Halifax, at the expiration of which time you will return to that port for further orders.

Given on board His Majesty's ship *Leander*, Bermuda, the 12th day of May, 1817.

DAVID MILNE, *Rear Admiral.*

To Captain SAMUEL CHAMBERS,  
*of His Majesty's ship Dee.*

By command of the Rear Admiral:  
J. P. LAMEY.

*Captain Samuel Chambers, of His Britannic Majesty's ship Dee, to Rear Admiral Sir David Milne, dated*

HIS MAJESTY'S SHIP *DEE*,  
OFF SHELBURNE, June 8, 1817.

SIR: In compliance with your order of the 12th ultimo, I sailed from Halifax on the 30th ultimo, but did not meet or receive any intelligence of foreign fishing vessels being within our jurisdiction until the 3d instant; when, being off the Isle Maten, I was informed that the whole of the banks to the westward (off Cape Sable and Shelburne) were fished by American schooners; and that they continually resorted to the creeks on this coast in order to catch their bait, clean their fish, wood, water, &c.; this, of course, is highly detrimental to the interest of the industrious fishermen on this coast. I was also informed that the intricate harbors of Cape Negro and Ragged Island were their resort most evenings, several going in; but more particularly on Saturdays, when they remain till Monday, to procure bait for the ensuing week. At the former place they had not been well received; at the

latter, I suspect, much encouragement had been given them by an individual. I intended having our boats into Ragged Island harbor before daylight on the 4th, but light winds prevented our getting that length. I, therefore, in the course of the day, put into Shelburne; and, in the evening, despatched the boats, under the charge of Lieutenant Hooper, into Ragged Island, with the order I enclose; the weather preventing any boats returning until the 7th, when I received information that nine American fishing vessels had been found at Ragged Island harbor, lying with their nets set. Lieutenant Hooper remained at this place, and despatched Lieutenant Lechere, with a gig and cutter, to Cape Negro, with the enclosed order. He found two American fishing vessels in the harbor, and seven others came in in the course of Saturday. The whole joined me this day with two others that came into Ragged Island. I have, therefore, in obedience to your directions, sent them into Halifax for adjudication; as any distress they may plead might, with more ease, be relieved at the regular harbor of Shelburne, which has been avoided for two intricate harbors in its immediate neighborhood.

I beg further to state that, without the use of our harbors, it appears impossible for any foreigners to carry on successful fishing on this coast, which fishing has much injured our fishermen; and I have every reason to believe that considerable smuggling of tobacco, shoes, &c., is carried on by their boats. I beg leave to enclose a list of the detained vessels, and also to inform you that, from some of the Americans attempting to tamper with some of our boats' crews, and the riotous conduct of others, I have been obliged to take precautionary measures to prevent any of the vessels being run away with.

I have the honor to be, &c.

SAM'L CHAMBERS, *Captain.*

Sir DAVID MILNE, K. C. B.,  
*Commander-in-chief, &c.*

*Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy, &c. at London, dated*

DEPARTMENT OF STATE, Nov. 6, 1817.

A full power to conclude a commercial treaty is furnished you, together with your commission and credential letters; and in your earliest communications with the British Secretary of State for Foreign Affairs, you will give him notice that you have such a power. Should he, then or at any subsequent time, while the United States are at peace, manifest, on the part of his Government, a disposition to enter upon the negotiation, and be provided with similar powers, you will recur to the instructions given to the American Plenipotentiaries for the negotiation of the peace. In them all the views of this Government, in relation to the proper regulation of maritime neutrality, are developed at large; and the President, still convinced that the principles there recommended are the best adapted to promote the great

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and permanent welfare of all mankind, and the preservation of peace upon earth, is yet willing that the United States should be bound by them, when their occasional and temporary operation may be to their disadvantage, provided they can secure the benefit of them when they shall hereafter be under circumstances to operate in their favor.

With regard to the strictly commercial part of the treaty, the principles for regulating the trade between the two countries during peace, you will recur to the same instructions to the Plenipotentiaries for the peace, to the commercial convention of 3d July, 1815, and to the instructions given to your predecessor in reference to the negotiation of a commercial treaty, particularly with regard to the intercourse between the United States and the British colonies in the West Indies and upon this continent.

*Extract of a letter from Mr. Adams to Mr. Rush, dated*

DEPARTMENT OF STATE, May 21, 1818.

The other law to which I have called your attention is an act concerning navigation, passed on the 18th, and published in the National Intelligencer on the 21st April. It meets the British prohibitive colonial system by direct and countervailing prohibition, to commence from and after the 30th of September next. The vote upon its passage in the Senate, where it originated, was all but unanimous, and in the House of Representatives the opposition to it amounted only to fifteen or sixteen votes.

Although no formal communication of this law to the British Government will be necessary, it may naturally be expected that it will be noticed in your occasional conversations with Lord Castlereagh. He will doubtless remember, and may be reminded of, the repeated efforts made by this Government to render it unnecessary by an amicable arrangement, which should place on an equitable footing of reciprocity the intercourse between the United States and the British colonies; he will remember the repeated warnings given, that to this result it must come, unless some relaxation of the British prohibitions should take place; and his own equally repeated admissions, that the exercise of the prohibitive right on the part of the United States would be altogether just, and would give no dissatisfaction whatever to Great Britain. You are, nevertheless, authorized to assure him that the President assented to this measure with great reluctance, because, however just in itself it may be, its tendencies cannot but be of an irritating character to the interests which it will immediately affect, and because his earnest desire is to remove causes of irritation, and to multiply those of a conciliatory nature between the two countries. Such has manifestly been, on both sides, the effect of the equalizing and reciprocal provisions of the convention of July, 1815; and such, he has no doubt, would be the effect of the extension of its principles to the commercial intercourse between

the United States and the British colonies in the West Indies and on this continent; and you are authorized again to repeat the offer of treating for a fair and equitable arrangement of this interest. A further inducement for making this offer may be stated in the expediency of looking forward, without further delay, to the expiration of the convention of 1815, which has now little more than one year to remain in force. It is important that the commercial part of the community, both here and in Great Britain, should have timely notice of the state in which the relations between the two countries are to stand after the termination of that convention. And, as there are other objects of moment to be adjusted, the President desires you to propose an immediate general negotiation of a commercial treaty, to embrace the continuance, for a further term of — years, of the convention; and also the other subjects in discussion between the two Governments—namely, the question concerning the slaves, that relating to the fisheries, the boundary line from the Lake of the Woods, and the Columbia river settlement. The President prefers taking this course to that of submitting to commissioners, at least immediately, questions upon which he thinks it probable the two Governments may thus, by a shorter process, come to a mutual understanding between themselves.

If, upon making this proposal, the British Government agree to this negotiation, the President proposes that Mr. Gallatin and you should be authorized, jointly, as plenipotentiaries, to conclude the treaty, which it is very desirable may be concluded in season to arrive here by the commencement of the next session of Congress, which is to be on the third Monday in November. Instructions will be transmitted immediately to Mr. Gallatin to hold himself in readiness to repair to London, upon receiving notice from you, should plenipotentiaries be appointed to treat with you; and, besides the instructions which formed the basis of the existing convention, and others already in your possession, further documents will be forwarded to you as soon as possible, which may assist you in the management of the negotiation.

We entertain hopes that this measure may result in a new treaty, which will remove most, if not all, of the causes of dissension between us and Great Britain. The satisfaction with which we have observed the avowal of the most *liberal* commercial principles by Lord Castlereagh in Parliament has already been noticed in my last letter. The opening, if not of all, at least of a great portion, of the ports of South America to the commerce of the world, which, under every possible course of events, must be now considered as irrevocable; and the bill which we perceive was before Parliament for establishing free ports in the British American colonies, all tend to convince us that Great Britain must see that a relaxation from her colonial restrictions has become the unequivocal dictate of her own interest.

J. Q. ADAMS.

Hon. RICHARD RUSH.

*Relations with Great Britain.*

*Extracts of a letter from Mr. Adams, Secretary of State, to Mr. Gallatin, dated*

DEPARTMENT OF STATE,  
Washington, May 22, 1818.

The present state of the relations between the United States and Great Britain has suggested to the President the expediency of proposing to the British Government the negotiation of a treaty of amity and commerce, to embrace the continuance for eight years longer of the commercial convention of July 3, 1815, and to attempt the adjustment of other objects interesting to the two countries, and upon which the Governments have not yet been able to come to an agreement. It is desirable that this negotiation should take place in the course of the ensuing Summer, and that its result should be transmitted here for the commencement of the next session of Congress, fixed for the third Monday of November. For, as the convention, unless continued, will expire in July, 1819, and as it is due to the interests of the merchants on both sides affected by it that early notice should be given whether its provisions are to be continued or to cease, it appears that no time is to be lost in bringing the question of its renewal or cessation to an immediate issue. As the motives for taking up the subject thus early are operative alike upon both parties, and as, in the event of the expiration of the convention of July, 1815, legislative measures preparatory to that contingency will doubtless be necessary as well in Parliament as in Congress, it is expected that this proposal will be acceded to by the British Government, and that Plenipotentiaries on their part will be appointed to treat with you and Mr. Rush, to whom jointly the President proposes to commit the trust of this negotiation.

A copy of the instructions forwarded to Mr. Rush relating to this subject is herewith enclosed; and the President desires that you would hold yourself, accordingly, ready to repair to London immediately upon receiving the notice from Mr. Rush that the British Government agree to the proposal, and have appointed, or are ready to appoint, Plenipotentiaries to confer and conclude with you. Your long experience and great knowledge of the subjects to be treated on are the motives of the President for associating you in this commission. A full power for the negotiation is herewith enclosed, and further instructions and documents relating to it will be transmitted to Mr. Rush as soon as they can be prepared. Your necessary and reasonable expenses upon this special mission will be allowed in like manner with those of a similar mission upon which you were employed last Summer in the Netherlands.

The President is willing that the convention of July 3, 1815, should be continued for eight or even ten years as it stands. Its operation has indeed been in some respects disadvantageous to the United States, and favorable to Great Britain, owing to the revival of the interdiction of access to our vessels to the British West India

and North American colonies, while our intercourse with them has been exclusively confined to British vessels. Yet that the injury to our navigation and shipping interest has not been very essential, we have many indications.

The moral effect of the equalization of duties on both sides in softening national asperities has been unequivocal, and is an object of much importance, deserving to be cherished and improved by both Governments. The encouragement which the convention has given to our trade with the British possessions in the East Indies is more questionable, as that trade operates upon us as a continual and embarrassing drain of specie. But as it has been a trade of profitable returns, and as it would still to a great extent be carried on with the native States of India, if we should be excluded, or our intercourse should be burdened and restricted with the British territories, the President will be satisfied to leave it as it is, and subject to the increasing competition of the British private traders with India, which will be likely to affect the interests of the British company more than ours.

The other interests which the President hopes may be adjusted by this negotiation are—

1. The intercourse with the British colonies in the West Indies and North America. You are well acquainted with the failure of the attempt to extend the convention of 1815 to this intercourse at the negotiation of the convention, and at a subsequent period, when four additional articles were proposed on the part of Great Britain, a copy of which you have. There was reason to believe that Lord Castlereagh was personally well disposed to a more liberal expansion of the colonial intercourse, although the Cabinet was not entirely prepared for it. The manner in which he has recently avowed a liberal commercial principle in Parliament, and the approbation with which that avowal was received; the obvious, though not declared, bearing which those sentiments had both upon the South American contest and upon the relations between the United States and the British colonies; the free port acts which we understand have been introduced into Parliament, and are even said to have passed, strongly and concurrently indicate that a change has taken place in the policy of the Cabinet on this subject; and we hope that now is precisely the favorable time for taking advantage of it. Our own navigation act may, perhaps, contribute to the same effect; and even should it operate otherwise, and confirm them in their obstinate exclusion of our vessels from those ports, as it will make their exclusion from ours to the same extent reciprocal, it leaves us the more free to agree to the renewal of the convention of July, 1815, if nothing more can be obtained.

2. Indemnity to the owners of the slaves carried away from the United States by British officers, after the ratification of the peace of Ghent, and contrary to a stipulation in the first article of that treaty.

Copies of the correspondence between the two



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Governments, on this subject, are in the possession of Mr. Rush. They disagreed in their construction of the stipulation alluded to; and, each party adhering to its own view of it, a proposal was made, nearly two years since, on our part, to refer it to the arbitration of some friendly sovereign. This proposal, which Mr. Rush, upon his arrival in England, renewed, has now been accepted by the British Government; but with a further proposal to refer it, and two other subjects, for arrangement in the first instance, to commissions like those under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent.

3. 4. These other subjects are, the boundary line from the northwest corner of the Lake of the Woods westward, which you remember was all but agreed upon, and went off upon a collateral incident at Ghent; and our *title* to the settlement at the mouth of the Columbia river.

The expediency of referring any of these questions to two commissioners, one belonging to each of the two countries, is very doubtful. With regard to the slaves, and to Columbia river, it can scarcely be expected that the commissioner of either party would ultimately entertain an opinion different from that already pronounced by his own Government; and, if concession upon one point is to be made the condition of corresponding concession upon the other, it may with more propriety be effected by compromise between the two Governments, than by judiciary powers given by them to individuals, under allegiance to the two countries themselves. As to the line from the Lake of the Woods, as some dissatisfaction has already been excited here by the expense occasioned by the two commissions already employed in settling the boundary, another commission, to draw a line through the depth of the deserts, and to an indefinite extent, would be still more liable to censure; besides the apprehension which it might raise, that the issue of the commission would be to bring the British territory again in contact with the Mississippi.

5. The fisheries.

The correspondence between the two Governments on this subject leaves it still in the unsettled state in which it was left at the peace. Two proposals have been made on the part of the British Government, neither of which proving acceptable, a counter-proposal from us has been promised, and will be contained in the further detailed instructions which will be prepared and forwarded to Mr. Rush, to assist in the conduct of the negotiation.

**JAMES MONROE, President of the United States :**  
*To all whom these presents shall concern—*  
*Greeting :*

Know ye, that, for the purpose of perpetuating between the United States and his Britannic Majesty the harmony and good correspondence happily subsisting between them, and of removing all grounds of dissatisfaction, and reposing special trust and confidence in the integrity, prudence, and abilities, of Albert Gallatin, our

15th CON. 2d SESS.—48

Envoy Extraordinary and Minister Plenipotentiary at the Court of France; and of Richard Rush, our Envoy Extraordinary and Minister Plenipotentiary at the Court of the United Kingdom of Great Britain and Ireland; I have invested them with full and all manner of power and authority, for and in the name of the United States, to meet and confer with any person or persons authorized by His Royal Highness the Prince Regent, acting in the name and behalf of His Majesty the King of the United Kingdom of Great Britain and Ireland, being furnished with like power and authority; and with him or them to agree, treat, consult, and negotiate, of and concerning the renewal of the convention concluded at London on the 3d of July, 1815, and concerning the general commerce between the United States and Great Britain and its dominions or dependencies, and such other matters and subjects interesting to the two nations as may be given to them in charge; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand, at the City of Washington, the 22d day of May, A. D. 1818, and of the independence of the United States the forty-second.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,  
*Secretary of State.*

*Extract of a letter from Mr. Adams to Mr. Rush, dated*  
DEPARTMENT OF STATE, May 30, 1818.

It is not our desire to embarrass the proposed commercial negotiation with any of the questions of maritime regulations adapted to a state of warfare. We do not wish that blockade, contraband trade with enemies or their colonies, or even impressment, should be drawn into the discussion, unless such a wish should be manifested on the British side.

Mr. Bagot has been informed that this negotiation will be proposed, and that, in the event of its being agreed to, another Plenipotentiary will be joined with you, to confer and conclude with those who may be appointed on the part of Great Britain. He is not aware that there will be any objection to it; but, if there should be any, and the British Government should determine to keep the renewal of the commercial convention distinct from every other subject to be arranged between the two countries, you will, of course, not give the notice to Mr. Gallatin to repair to London, mentioned in my last despatch. If the British Cabinet agree to negotiate, it is hoped that the special instructions to be prepared and forwarded to you will reach you as soon as Mr. Gallatin will find it convenient to meet you in London. If the British Cabinet prefer, by a

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single article, to renew the convention of July, 1815, for a term of eight, ten, or even twelve years, or any shorter period, your full power, heretofore given, will be still in force, and will enable you to conclude such an article, subject to the ratification here, by and with the advice and consent of the Senate.

*Extract of a letter from Mr. Rush to Mr. Adams.*

LONDON, June 26, 1818.

In my interview with Lord Castlereagh on the 11th of this month, other subjects were treated than those I have already communicated, of which it is proper that I should now give a particular account.

In the foremost rank stands impressment. A sufficient interval having elapsed, I asked his Lordship if any answer was made up on the proposal I had submitted on the 18th of April. He replied that he had brought it before the Cabinet, where it had been considered with all the care which it merited. He proceeded to touch upon some of the principles and arguments to which the subject always leads. He adverted first, as connected with naturalization, to the opposite opinion which the two Governments held upon the doctrine of allegiance. I said that I was aware of no opinions entertained by the Government of the United States upon that point, except such as were sanctioned by the ancient and predominant authorities of law, as well as the general usage of Europe. He next observed that we gave to our ships a character of sovereignty which Great Britain did not; that we considered them part of our territory, clothing them with corresponding immunities. I said it was true that we did consider our ships quite as inviolable as the soil, in the protection which they should afford to our seamen, whether native or naturalized; but never had we, as a neutral, claimed to shield them from entry under any of the just belligerent rights of search; that is, whether to look for persons in the land or naval service of a co-belligerent, articles contraband of war, or enemy's property. That these constituted the utmost limit to which the belligerent claim had ever been pushed. What we complained of was, that Great Britain, passing them all, should enter a new field, and set up a right to enforce in our vessels, while navigating the high seas, her own municipal laws. His Lordship did not view it in this light, but spoke of the claim as one being established, and incontestable on the part of Great Britain. He said it became his duty to add, that, on a full consideration of the proposal, it had not been found practicable to forego, under any conventional agreement, the execution of which was to depend upon the legislative ordinances of another country, this right of looking for her subjects upon the ocean wherever she might be likely to find them.

From the broad ground of this decision, it became evident that there could no longer be any possible advantage in adhering to the course marked down in my despatch of the 20th of

April. This, it will be recollected, was not to disclose, in the first instance, all my powers. I therefore risked nothing in asking his Lordship what difference it would make if the United States would agree to exclude from service, on board both of their ships of war and merchant vessels, all native born British subjects.

He replied that this, indeed, would be going a step further, but it would still leave the proposal within the principle of their objection. That the objection, in short, went to the full length of an unwillingness to concede, by treaty, the right of entering the vessels of a foreign Power, to look for their subjects, whatever its terms.

I now remarked that I heard this determination with regret, as I was ready to accede to a stipulation, on the part of my Government, bottomed on the unqualified exclusion of all natives from both branches of the service; and I feared, also, that this would exhaust all the offers which it had to submit. I begged that he would, in fact, consider such an offer as distinctly made, and under full authority. He promised to do so.

Every proposal which it fell within the compass of the United States to put forward being gone through, I asked in turn, if it had occurred to his Lordship to hold out any overtures on the part of the British Government. I reiterated, in forcible terms, the assurance that there prevailed throughout the United States one universal wish, with Government and people, to see removed the sources of a dispute which concerned so seriously both nations. But I found that he was prepared with none which did not assume the right of previously entering our ships. For the judicious and safe exercise of this right, Great Britain, he said, was willing to enter into the most effective regulations, such as restricting the boarding officers to those of a rank not below lieutenants, giving responsible receipts for the men taken out, or any other safeguards which the American Government might propose as better adapted to the end; that she would always be ready to receive, and in the most friendly manner discuss, proposals of this description, under the hope of some practicable arrangement growing out of them.

I did not hesitate to say that the United States would never admit, by convention, a right to enter their vessels for such a purpose as impressment. It would be to surrender principles which they held too sacred; besides, that its exercise, however attempted to be softened, must necessarily be liable, from circumstances intrinsic and insurmountable between the two nations, to perpetual and the most fatal abuse. His Lordship, while repeating the inability of Great Britain to abandon by compact her ancient right, again frankly admitted the evils of which it had been the parent, and which he hoped never to see revived. He added that it would be her anxious desire in future, hoping that the day of necessity for its actual exercise was far distant, to free it as much as possible from abuse, and that, in particular, it would be much the more sparingly brought into activity, if the American Govern-

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ment, by adopting, of its own accord, such legislative ordinances as I had proposed, would thus inspire a confidence that, at all events, but few of her subjects would find their way into American ships.

It will be supposed that I alluded to the unequal ground upon which such a course would place the United States. If they consented to pass laws of this nature, it might reasonably be expected that they must see their way to an equivalent in some stipulation, on the part of Great Britain, of ascertained and positive value, and that no other would be stamped with that character but an agreement not to enter their ships.

Although I explicitly made the proposal of a willingness not to employ in our service even her native subjects, I did not think it right that it should rest upon the footing of a verbal offer. The less did I think this would be prudent, from observing an inclination in his Lordship's mind, towards the close of our conversation, to consider what had passed as wearing an informal rather than any other character, inasmuch as it had been productive of no results. I removed this impression by new and unequivocal declarations that it was to be regarded differently. In conformity with them, I put into his hands, on the 20th of this month, the paper marked No. 2, which accompanies this despatch. In delivering it, I desired that he would consider it as altogether and strictly official. It was true, I said, the proposal which it embraced had already been rejected; but I knew so well the anxiety of the President upon this great point, as to feel sure that I should be more truly the organ of his will by putting it in a shape in which it might go among the archives of this Government, and would add, in the further hope that possibly other views might, in other times, be taken of it. On receiving the paper with this remark, his Lordship said he would lay it before the Cabinet on his return from Ireland, whither he was soon to go, and that, perhaps, it might be thought advisable to put in writing the objections and counter-opinions of Great Britain.

In this abortive manner has the attempt ended. I have endeavored to recount, with all possible accuracy, what has transpired, and trust that in no material point have I misunderstood the communications of this Government. It places upon record another and an earnest effort to settle this great and formidable controversy. The failure is the more to be deplored, as the attempt has been made during a season of profound peace, and when the two Governments seem well disposed towards each other. The United States have again done all that they could towards allaying it. They declare that they want not British seamen in their vessels. They engage to exclude them by all the means that human laws can devise. In a spirit of extreme conciliation, they go farther in their offer than the obligations of co-equal sovereignty, or the policy and habits of their internal system, might, in the judgment of all, be thought to dictate. Whilst they concede so much, Britain will yield nothing. She remains rigid

and inexorable. She will not meet half way. She will not turn a step from her course. To an alleged right, but which has often been demonstrated to be utterly without support, in any one principle that the society of nations has ever recognised—unless the dicta of English common lawyers make up the great and universal code of public law—does she continue to cling, in the mere ambitious and wilful reliance upon an unchecked career in her naval supremacy. It is upon such foundations that she virtually threatens the indefinite continuance of a practice more afflicting to humanity, as far as the scale extends, than was ever the African slave trade, and in the highest degree insulting to the rights and dignity of an independent and powerful nation.

The subject of impressment being, I fear, finally disposed of, as one of negotiation between the two Governments, Lord Castlereagh next reminded me that it was now but little more than a twelvemonth from the time fixed for the expiration of the commercial convention of 1815. He asked if I knew the views of my Government in regard to its renewal. I replied that at present I did not, with precision. He requested that I would consider his question as intended to draw my attention specially to the subject, and expressed some anxiety to have information at as early a day as convenient.

I anticipate the probability of the expression of some sentiments to me from the Department, in the course of the present Summer, in relation to this convention. How far our act, bearing upon their colonies, is to operate on the question of renewal, or, if objectionable in its existing provisions, in what respects modifications are to be insisted upon, are points on which I am not instructed. I am aware that it is already made my duty to obtain and transmit information upon which, perhaps, a final opinion on the merits of the convention was expected, in part, to rest. Of this duty I have not been unmindful. But it is proper I should state that my efforts, for reasons that will be explained in a future despatch, do not promise as much success as I had hoped. Besides inquiries among individual merchants, wherever it has come within my power to make them, I addressed, in March, a letter to each one of our Consuls within the European dominions of this country. Answers are, from time to time, dropping in; but neither from them, and still less from my personal inquiries, is it likely that I shall derive information, either so full or so accurate, on the effects of the cessation of all discriminating duties, as to be of any decisive or even great account in making up a judgment. In the next place, although I will take care that what I do obtain is transmitted in time for the session of Congress in November, the period which my instructions seem to contemplate, it would be desirable, I am sure, to this Government, to be furnished sooner, if possible, with an intimation of the intentions of ours in relation to this compact.

If it is to be suffered to run out without renewal, Great Britain having positively declined forming a treaty with us which shall include her colonies,

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upon what footing are the commercial relations of the two countries to stand? Will each be left to its own regulations, as sometimes heretofore, or is any substitute to be proposed? These are points on which I should feel happy to receive information, whenever it may be thought fit to impart it.

*Extract of a letter from Mr. Rush to the Secretary of State, stating a conversation between himself and Lord Castlereagh, dated*

LONDON, July 25, 1818.

I entered next upon the subject of the commercial relations between the two countries. Remarking upon the change produced in them by the prohibitory act of the last session of Congress, now soon to commence its operation, I observed that I had it in charge to say that the President had yielded his assent to that act with reluctance; for that, however just, its tendencies might be of an irritating nature to the individual interests that it would affect on both sides, whilst it was his constant desire to give efficacy to measures mutually more beneficial and conciliatory. It was, therefore, that I was once more authorized and instructed to propose to this Government the negotiation of a general treaty of commerce. That the President had, besides, agreed that there should be comprehended in the negotiation other matters heretofore desired to be treated of by this Government, as well as points in which the Government of the United States took a particular interest; being, in the whole, 1. The question respecting the slaves carried off from the United States, in contravention, as alleged, of the Treaty of Ghent. 2. The question of title to the settlement at the mouth of Columbia river. 3. The question of the Northwestern boundary line, from the Lake of the Woods; and 4. That of the fisheries. Upon these topics, the President, I added, preferred treating in a direct way in the first instance, in the hope that the two Governments might arrive at a just understanding, without resorting to commissioners; and that, if this Government was prepared to go into all of them, including, especially, a general treaty of commerce, another Plenipotentiary had been contingently appointed on the part of the United States, to meet with me any two that might be designated on the part of Great Britain.

His Lordship asked what he was to understand by a general treaty of commerce. I replied, a treaty that should lay open, not a temporary or precarious, but a permanent intercourse with their West India islands and North American colonies to the shipping of the United States, as often before proposed, but which, after the recent refusals, it might seem almost unnecessary again to bring into view, were it not that other objects of interest to both nations were now associated with it in a way to clothe the proposition with a new aspect.

He answered that the British Government would certainly be willing to enter upon a nego-

tiation on the commercial relations of the two countries, but that he had no authority to say that the colonial system could be essentially altered; broken down it could not be. I said, that if it was not to be departed from, or in no further degree than the four articles had imported, as those articles had already been rejected, it did not appear to me that any advantage would be likely to arise from going into the negotiation. He replied that he was not prepared to answer definitively upon all or any of the points, but would lay them before the Cabinet, and let me know the result. He professed earnestly, in the course of the conversation, the desire which this Government had to see the commerce of the two countries stand upon the best footing of intercourse, the stake to each being so great, and promising, with the growth of the United States, to be so much greater.

In the event of a negotiation, upon the grounds I had explained, not being opened, he asked if I could inform him what the intentions of my Government were relative to the commercial intercourse between the two countries, it being, for obvious reasons, desirable soon to know. Here I did not hesitate to announce that, in such an event, which I still hoped would not be the case, it was willing simply to renew the existing convention of 1815, thus keeping this instrument distinct from all other questions of a commercial nature, if the British Government preferred it. This communication, I thought, he received with evident satisfaction. He remarked that it would rescue the commercial relations from all danger of a chasm, and make known, in immediate reply, the readiness of his Government to acquiesce in such a course.

On the 22d I received a note from him requesting him to see me again at the Foreign Office on the 23d. I was there accordingly. Mr. Robinson, who is now a member of the Cabinet, as well as President of the Board of Trade, was present. It was the first occasion upon which any third person had been associated with Lord Castlereagh at any of our official interviews.

His Lordship commenced by saying that he had laid my proposals before the Cabinet, and that it had been agreed to enter upon the general negotiation; that is, one which should embrace all the points I had stated. In relation to the great commercial question, he begged I would understand that the British Government did not pledge itself beforehand to a departure from its colonial system in a degree beyond what it had already offered; but that it was sincerely desirous to make the attempt, and unequivocally wished to bring the whole commercial relations of the two countries into view; willing to hope, though abstaining from promises, that some modification of that system, mutually beneficial, might be the result of frank and full discussions renewed at the present juncture. I replied that I knew my Government would hear this determination with great satisfaction; that it would cordially join in the hope that the new effort might be productive of advantage to both countries, and strengthen

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the ties of good intercourse that should unite them.

I now informed him that Mr. Gallatin, the present Minister from the United States at Paris, would take part in the negotiation, and come over to London as soon as it would be convenient to say that Plenipotentiaries would be appointed on the part of Great Britain. He said, the sooner the better; and that Mr. Robinson and Mr. Goulburn would be named to treat with us. His Lordship said that he himself would be obliged to set out for the Continent to attend the European Congress, by the 20th or 25th of next month, but that the negotiation could go on in his absence. He intimated a wish, however, that it might open, if practicable, before he went away. I answered that all the necessary powers and instructions from our Government had not yet reached us, but that we were in daily expectation of them.

He next asked whether, in order to guard against all possible delays that might be incident to the general negotiation, which was to embrace so many points, I was prepared to agree at once to a renewal of the convention of 1815, for a term of years to be agreed on, declaring that the British Government was ready, at any moment, to concur in such agreement.

I answered, without reserve, that I was already in possession of a full power to this effect, which, independently of other objects, might be carried into execution.

I wrote yesterday to Mr. Gallatin, to apprise him of the necessity of coming over, the contingency which was to bring him having happened. From the answer I have received to my letter to him of the 2d of this month, I think it probable that he will be here in three weeks, or sooner; so that, if our full powers arrive, the negotiation may be opened before Lord Castlereagh's departure. Should Mr. Gallatin concur, we will make the renewal of the convention for eight, ten, or twelve years, our first act. This I hope the President will approve. The reasons that operate with me, are, 1. It will not only provide against delays, but all uncertainties in the result, of the possibility of which we are forewarned simultaneously with the desire expressed to enter the field of negotiation. It is not only important that there should be no chasm in the commercial relations between the two countries, but equally so that our merchants should have timely notice that there will be none. 2. Every inquiry that I have made among merchants of the United States, with whom I have been able to confer in this city, has produced the most unequivocal opinions that this convention is working well for us, which entirely falls in with the communications I have received from the Department. 3. Taking this for the fact, it seems naturally to follow that it is our part to consent to the renewal the moment that Britain says she will, lest the day should go by. On this head I will just state that I have heard, through a respectable source, that there are already some British ship owners in Liverpool, who talk of petitioning their Government against its renewal. Lastly, my power

to renew seems to me, from your despatch of the 30th of May, to be complete; nor will its exercise thwart, in any degree, our prospects of a more enlarged treaty under the general negotiation.

*Extract of a letter from Mr. Adams to Messrs. Gallatin and Rush, dated*

DEPARTMENT OF STATE, July 28, 1818.

In the expectation that the Government of Great Britain have accepted the proposal which Mr. Rush was instructed to make, for negotiating a treaty of commerce, embracing the continuance of the convention of 3d July, 1815, for an additional term of years, and including other objects of interest to the two nations, I have now the honor of transmitting to you the President's instructions to you for the conduct of the negotiation.

With regard to the commercial convention of 3d July, 1815, you have already been informed that the President is willing that it should be continued without alteration for a further term of eight or ten years. We had flattered ourselves, from the liberal sentiments expressed by Lord Castlereagh in Parliament, and from various other indications, that the British Cabinet would have been now prepared to extend the principles of the convention to our commercial intercourse with their colonies in the West Indies and North America; but, from the report of two conferences between Mr. Rush and Lord Castlereagh, since received, it appears that our anticipations had been too sanguine, and that, with regard to our admission into their colonies, they still cling to the system of exclusive colonial monopoly.

Our navigation act, passed at the last session of Congress, is well calculated to bring this system to a test by which it has not hitherto been tried; and if the experiment must be made complete, so that the event shall prove to demonstration which of the two countries can best stand this opposition of counter-exclusions, the United States are prepared to abide by the result. Still, we should prefer to remove them at once, if for no other reason than that it would have a tendency to promote good humor between the two countries. We wish you to urge this argument upon the British Cabinet; to remind them of the principles avowed by Lord Castlereagh in Parliament, to which I have before referred, and of their precise bearing upon this question. It may also be proper to suggest that, while Great Britain is pressing upon Spain the abandonment of her commercial monopoly throughout the continent of South America, her recommendation must necessarily gain great additional weight by setting the example with her own colonies, while at the same time her own interest in her monopoly must be reduced to an object too trifling for national consideration, when the Spanish colonies shall be open to the commerce of the world. Finally, it may be observed that the free port act passed at the last session of Parliament, goes already so far as the abandonment of their system, that it can scarcely be perceived why they should

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adhere to the remnant of it any longer. Other arguments may occur to your own reflections, and result from your thorough knowledge of the subject; you will urge them with earnestness, though giving it always to be understood that we shall acquiesce in their ultimate determination.

Whenever this subject has been presented to the British Cabinet, since the peace, their only objection to the proposals and arguments of the United States has been that their system has been long established. Lord Castlereagh has invariably acknowledged his own doubts whether it was wise, or really advantageous to Great Britain, but placed the determination to preserve it upon the single ground of its having long existed. Whatever weight there is in this reasoning, it would bear in favor of all those other exclusions which he congratulated Parliament and the country at having been abolished, as much as in support of this. It is the argument of all existing abuse against reformation—of mere facts against reason and justice. The commercial intercourse between the United States and the West Indies is founded upon mutual wants and upon mutual convenience; upon their relative geographical position; upon the nature of their respective productions; upon the necessities of the climate; and upon the convulsions of nature. When the British Ministry say, Against all this our ancestors established a system, and therefore we must maintain it; we may reply, If your ancestors established a system in defiance of the laws of nature, it is your interest and your duty to abolish it. But who can overlook or be blind to the changes of circumstances since the establishment of the system; to the irresistible consequences of the establishment and growth of the United States as an independent Power; to the expulsion of the French from St. Domingo; to the revolution in progress in the South American provinces? Every system established upon a condition of things essentially transient and temporary must be accommodated to the changes produced by time.

Besides the free port act, a printed copy of which has now been received from Mr. Rush, and which, we find, is limited to ports specially to be appointed by the Crown, in the provinces of Nova Scotia and New Brunswick, we have seen in the public journals a bill for permitting a certain trade between the British West Indies and any colony or possession in the West Indies, or on the continent of America, under the dominion of any foreign *European* Sovereign or State. This measure appears intended to counteract the effects of our late navigation act, and gives further manifestation of the adherence of the British Government to their colonial exclusions. It is the President's desire that nothing should be omitted which can have the tendency to convince them that a change would promote the best interests of both countries, as well as the harmony between them. Should your efforts prove ineffectual, we can only wait the result of the counteracting measures to which we have

resorted, or which may be found necessary hereafter.

In carrying the convention of 3d July, 1815, into execution, the British Government have sanctioned the practice, with regard to some of the foreign tonnage duties; first, to levy them as if the convention were not in force, and then, upon petition of the persons interested, to have them returned. If this practice cannot be given up altogether, it will be necessary that some regulation should be adopted, by which the extra duties shall be returned of course, and without putting the parties to the trouble, expense, and delay of obtaining it by petition. At present, unless the petition is presented, the duties are not returned. It happens sometimes that masters of vessels pay the duties, without knowing that they are entitled to have them returned; in which case they are lost to them or their owners. It will be proper, therefore, to require the adoption of some general regulation; in virtue of which it shall be made the duty of the officers of the customs to repay the extra duties, in all cases in which they shall have been levied, without exposing the individual to lose his right by his own ignorance, or by the negligence or infidelity of his consignee.

## 2. *Slaves.*

The British Government have accepted the proposal of referring to the decision of some friendly Sovereign or State, the question concerning the slaves carried away from the United States by British officers after the ratification of the peace. They propose, however, a previous reference of it to two commissioners, appointed like those under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent, and to proceed with similar powers; and committing to the same commissioners the power of fixing definitively the boundary between the United States and the possessions of Great Britain, westward, from the northwest corner of the Lake of the Woods; and of pronouncing upon the right of the United States to the settlement on the shores of the Pacific ocean, at the mouth of Columbia river. These objects are so entirely different from one another; the principles, the character of the evidence, and the reasoning which must lead to the result, are so disconnected and incongruous, that, if submitted at all to commissioners, it is obviously proper to refer them to different commissions. The question concerning the slaves is a question of construction upon the terms of the first article of the treaty, and the two Governments having already discussed it, each, after discussion, adhering to its own opinion, there is little prospect that either of the commissioners will come to a conclusion different from that of his own Government. The present offer of the British Government, connecting it with another question of boundary, bears the appearance of a disposition to make it an affair of compromise, and that they are willing to concede something to us on one of the points, upon condition of a concession from us upon another. If this be their object, these mutual concessions may be made with

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more convenience by direct and immediate agreement between the two Governments, and by an article of the treaty, than by the means of commissioners, whose functions are rather of the judicial than the ministerial character, and whose duties are to decide, and not to compromise.

### 3. *Boundary, from the Lake of the Woods, westward.*

By the second article of the treaty of peace of 1763, the boundaries of the United States, after having been traced from the northwest angle of the Lake of the Woods, are pursued "from thence, on a due west course, to the river Mississippi; thence, by a line to be drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude."

By the fourth article of the treaty of 1794, it was declared to be uncertain whether the river Mississippi extended so far to the northward as to be intersected by a line due west from the Lake of the Woods; and a joint survey of the river, from one degree below the falls of St. Anthony to the principal sources of the said river, and of the parts adjacent thereto, was stipulated; and if, on the result of the survey, it appeared that the river would not be intersected by the line, the parties were to regulate the boundary line by amicable negotiation, according to justice and mutual convenience, and in conformity to the intent of the treaty. This joint survey never took effect.

By a convention signed on the 12th of May, 1803, by Mr. King and Lord Hawkesbury, but which was not ratified, it was agreed that the boundary should be by a line from the northwest corner of the Lake of the Woods, by the shortest line, until it touched the river Mississippi. Until then, the Mississippi river had been the western boundary of the United States. The cession of Louisiana gave them a new and extensive territory westward of that river.

In the negotiation of 1807, between Messrs. Monroe and W. Pinkney, and the Lords Holland and Auckland, there were three successive draughts of articles for the settlement of this boundary. The first, proposed on the British side, was a line due west from the Lake of the Woods, along the forty-ninth parallel of north latitude, as far as the territories of the United States extend in that quarter, and the line, to that extent, was to form the boundary; with a proviso that the article should not be construed to extend to the northwest coast of America, or to territories westward of the Stony mountains.

The second, proposed on the part of the United States, took a line due north or south, as the case might be, from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and then due west, along that parallel, for the boundary between the territories of the parties; with he proviso excluding the northwest coast and all territories westward of the Stony mountains.

The third was agreed to by both parties, and varied from the second only by an additional clause, purporting that this should be the boundary, as far as the respective territories of the parties extend in that quarter.

That convention was not ultimately concluded. At the negotiation of the Peace of Ghent, the eight article of the first projet, presented by the American Plenipotentiaries, was a transcript from this article last above mentioned; and the article proposed by the British Plenipotentiaries on returning the projet was the same as that which had been first proposed by Lords Holland and Auckland, with an additional paragraph, stipulating free access to British subjects through the territories of the United States to the Mississippi, and free navigation of that river. In the conferences that ensued, the substance of the article, so far as it regarded the boundary, was agreed to on both sides; but, as the American Plenipotentiaries could not accede to the additional paragraph, the article was finally altogether omitted.

From the earnestness with which the British Government now return to the object of fixing this boundary, there is reason to believe that they have some other purpose connected with it, which they do not avow, but which, in their estimation, gives it an importance not belonging to it, considered in itself. An attempt was at first made by them, at the negotiation of Ghent, to draw the boundary line from Lake Superior to the Mississippi. But, as they afterwards not only abandoned that pretension, but gave up even the pretension to an article renewing their right to the navigation of the Mississippi, it was to have been expected they would thenceforth have considered this western boundary of no importance to them. The new pretension, however, of disputing our title to the settlement at the mouth of Columbia river, either indicates a design on their part to encroach, by new establishments of their own, upon the forty-ninth parallel of latitude, south of which they can have no valid claim upon this continent; or it manifests a jealousy of the United States—a desire to check the progress of our settlements—of which it might have been supposed that experience would before this day have relieved them. Their projects for the line, both in the negotiation of Messrs. Monroe and Pinkney in 1806, and at Ghent in 1814, were to take the forty-ninth parallel of latitude, from the Lake of the Woods west, as far as the territories of the United States extend in that direction, with a caveat against its extension to the South sea, or beyond the Stony mountains. Upon which, two observations are to be made—first, that it is uncertain whether any part of the Lake of the Woods is in latitude forty-nine; and, secondly, that they always affected to apply the indefinite limit of extension "as far as the territories extend," to the territories of the United States, and not to those of Great Britain—leaving a nest-egg for future pretensions, on their part, south of latitude forty-nine. The counter-projects for the line on our part, therefore, at both those negotiations, were from the northwest corner of the Lake of

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the Woods, the point already fixed and undisputed, a line due north or south, as the case may be, to the forty-ninth parallel of latitude; and thence along that parallel, due west, as far as the territories of *both parties* extend in that direction, and adopting the caveat against extension to the Pacific, or beyond the Stony mountains.

#### 4. *Settlement at the mouth of Columbia river.*

From the late correspondence with the Spanish Minister, (Onís,) it appears that the claim of Spain upon the shores of the South sea extends to the fifty-sixth degree of north latitude; but there is a Russian settlement in fifty-five, besides a temporary lodgment connected with it, as far South as forty-two. The pretensions of the British Government may on this occasion be disclosed. We know not precisely what they are, nor have they explained the grounds or the motives upon which they contest our right to the settlement called Astoria, formed before the late war, and broken up by the British sloop-of-war *Raccoon* in the course of it. The papers enclosed, marked from A to I, contain all the information material to the subject possessed by this Department. It appears that, at the time when the American settlement was broken up during the war, the property was purchased by certain agents of the British Northwest Company. This, however, could in no manner divest the United States of their jurisdiction. As the British Government admit explicitly their obligation under the first article of the Treaty of Ghent to restore the post, there can be no question with regard to the right of the United States to resume it. We do not perceive how or why this question should be referred to two Commissioners of the respective nations. And as Russia herself has pretensions on that coast, it deserves the consideration of both parties whether the ultimate determination, in the almost unavoidable case of a difference between the Commissioners, could with propriety be referred to her Sovereign. Mr. Rush has been instructed, in the event of a final difference between the Commissioners, under the existing commissions, to propose the Emperor of Russia as the Sovereign to whose decision the reference stipulated on that contingency in the treaty should be made. It cannot be doubted that he was the Sovereign contemplated by both parties at the time when the treaty was concluded; and it might be difficult to designate any other in whom the confidence of both parties would be so strong and clear as to secure their cordial acquiescence in his decision.

The expedient itself of submitting questions of territorial rights and boundaries in discussion between two nations to the decision of a third was unusual, if not entirely new; and, should the contingency occur, will probably encounter difficulties of execution not foreseen at the time when the stipulation was made of resorting to it. The subjects in controversy are of a nature too intricate and complicated, requiring on the part of the arbitrator a patience of investigation and research—historical, political, legal, geographical, and

astronomical—for which it is impossible to conceive that the Sovereign of a great Empire could *personally* bestow the time.

These ideas are suggested with a view to recommend the attempt rather to come to an agreement between the parties themselves, upon all subjects which have not been thoroughly discussed between them, than to cast their difficulties upon Commissioners, who can scarcely be expected to agree concerning them, and then upon a foreign Sovereign, of whose personal integrity no doubt can be entertained, but who cannot have leisure to sift the subjects in dispute to the bottom.

On the whole, the President will be well satisfied if these three objects—of indemnity for the slaves carried away, of the western boundary from the Lake of the Woods, and of the settlement at the mouth of Columbia river—can be adjusted by this negotiation, rather than referred to commissioners, which must be expensive, and so constituted as to make it at least probable that they will decide nothing; and then to a friendly sovereign, still at great expense and other inconveniences to both parties. With regard to the slaves, the question which it was proposed should be submitted to the decision of an impartial arbitrator was merely on the construction of one paragraph in an article of the Treaty of Ghent. This was so simple, and requiring so little research or investigation of any kind, that it might have been decided immediately by the sovereign himself, upon an inspection of the article, and a short statement of the facts, to which both parties would have agreed. But the delineation of an unsettled boundary across the western deserts of this continent, the title to establishments on the Pacific ocean, where the arbitrator himself is not without his pretensions, and where, save pretensions, there is no object to any party worth contending for—to create burdensome commissions and make solemn references to a foreign sovereign for these, appears scarcely to be necessary, if altogether justifiable. As to the line from the Lake of the Woods, you are authorized to agree to that which was agreed upon by the Plenipotentiaries on both sides in 1807, but not to any line which would bring the British in contact with the Mississippi, nor to anything which would authorize the British to trade with Indians within the boundaries of the United States. Of the inconveniences of allowing such trade, even by licenses, a recent instance has occurred; copies of the papers relating to which are transmitted to you.

#### 5. *Fisheries.*

The proceedings, deliberations, and communications upon this subject, which took place at the negotiation of Ghent, will be fresh in the remembrance of Mr. Gallatin. Mr. Rush possesses copies of the correspondence with the British Government relating to it after the conclusion of the peace, and of that which has passed here between Mr. Bagot and this Government. Copies of several letters received by members of Con-



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gress during the late session, from the parts of the country most deeply interested in the fisheries, are now transmitted.

The President authorizes you to agree to an article whereby the United States will desist from the liberty of fishing, and curing and drying fish, within the British jurisdiction generally, upon condition that it shall be secured as a permanent right, not liable to be impaired by any future war, from Cape Ray to the Ramea islands, and from Mount Joli, on the Labrador coast, through the Strait of Belleisle, indefinitely north, along the coast; the right to extend as well to, curing and drying the fish as to fishing.

By the decree of the judge of the vice-admiralty court at Halifax, on the 29th of August last, in the case of several American fishing vessels which had been captured and sent into that port, a copy of which is also now transmitted to you, it appears that all those captures have been illegal. An appeal from this decree was entered by the captors to the appellate court in England, and the owners of the captured vessels were obliged to give bonds to stand the issue of the appeal. Mr. Rush was instructed to employ suitable counsel for these cases, if the appeals should be entered and, as we have been informed by him, has accordingly done so. If you do not succeed in agreeing upon an article on this subject, it will be desirable that the question upon the *right* should be solemnly argued before the Lords of Appeals, and that counsel of the first eminence should be employed in it. Judge Wallace agreed with the Advocate General that the late war completely dissolved every right of the people of the United States acquired by the treaty of 1783. But it does not appear that this question had been argued before him, and the contrary opinion is not to be surrendered on the part of the United States upon the *dictum* of a vice-admiralty court. Besides this, we claim the rights in question not as acquired by the treaty of 1783, but as having always before enjoyed them, and as only recognised as belonging to us by that treaty, and therefore never to be divested from us, but by our own consent. Judge Wallace, however, explicitly says that he does not see how he can condemn these vessels without an act of Parliament; and whoever knows anything of the English constitution must see that on this point he is unquestionably right. He says indeed something about an Order in Council, but it is very clear that would not answer. It is a question of forfeiture for a violated territorial jurisdiction; which forfeiture can be incurred, not by the law of nations, but only by the *law of the land*. There is obviously no such law.

The argument which has been so long and so ably maintained by Mr. Reeves, that the rights of *antenati* Americans, as British subjects, even within the Kingdom of Great Britain, have never been divested from them, because there has been no act of Parliament to declare it, applies in its fullest force to this case; and, connected with the article in the treaty of 1783, by which this particular right was recognised, confirmed, and

placed out of the reach of an act of Parliament, corroborates the argument in our favor. How far it may be proper and advisable to use these suggestions in your negotiation, must be left to your sound discretion; but they are thrown out with the hope that you will pursue the investigation of the important questions of British law involved in this interest, and that every possible advantage may be taken of them, preparatory for the trial before the Lords of Appeals, if the case should ultimately come to their decision. The British Government may be well assured that not a particle of these rights will be finally yielded by the United States without a struggle, which will cost Great Britain more than the worth of the prize.

These are the subjects to which the President is willing that your negotiation should be confined. With regard to the others of a general nature, and relating to the respective rights of the two nations in times of maritime war, you are authorized to treat of them, and to conclude concerning them, conformably to the instructions already in possession of Mr. Rush; or, if the difficulty of agreeing upon the principles should continue as great as it has been hitherto, you may omit them altogether.

You will not fail to transmit, by duplicates, the result of your conferences, at as early a period as may be found practicable.

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*Extract of a letter from Mr. Adams to Mr. Gallatin, dated*

DEPARTMENT OF STATE, July 29, 1818.

This letter is merely to request you, in case the British Government should have accepted the proposal for that negotiation, and if you should be still in Paris when you receive it, to repair without delay to London, for the purpose of entering upon the negotiation. It is hoped you will be able to finish it, and to transmit the result here for the meeting of Congress, on the third Monday in November.

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*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, August 13, 1818.

On the day before yesterday I received a letter from Mr. Gallatin, dated the 6th of this month. He informs me that the full powers have got to hand, and that he expects to be here on the 16th.

The prospect of opening the negotiation before the departure of Lord Castlereagh seems, therefore, now to be good. I went yesterday to the Foreign Office to request that the proper orders may be expedited to Dover for the entrance of Mr. Gallatin, his family, and baggage, into the kingdom, without molestation or delay.

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*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, August 15, 1818.

On the evening of the 13th I received a note from Lord Castlereagh, requesting me to call at

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the Foreign Office yesterday at four o'clock. I went accordingly, when a conversation took place, which I proceed to relate.

The ostensible object of the interview was to say to me that some circumstances would prevent the Congress assembling at Aix-la-Chapelle earlier than the 20th of September, which would make it unnecessary for him to go away quite as soon as he had originally contemplated. He was glad of this, he added, as it would insure to him an opportunity of being present here when the negotiation, so soon to take place between the two countries, commenced. I informed him of our full powers having been received, and of the expectation I now had of Mr. Gallatin's arrival in a day or two. He subjoined a few words as to the formal manner in which it appeared to him best that the negotiation should move along, and also to apprise me that, although he expected to go into the country to-morrow, he would be in town again on the 25th. Here this part of the conversation closed.

He next surprised me agreeably by reviving the subject of impressment, which I thought had been blotted out from our conferences. He began by premising that what he was going to say was confidential, and, for the present, without the knowledge of his colleagues in the administration; that he had reflected much and anxiously upon my late proposals, which, it was true, had, as they now stood, been rejected. But, feeling anew the importance of this subject to the future harmony of the two countries, and willing, if possible, not to let it be shut out from the general negotiation upon the eve of opening, it had occurred to him to offer some suggestions in relation to it, barely to see how they struck my mind, and know if there would be a motive to pursue them. He went on to say that his own impression was, (protesting that, as yet, he was not authorized to say it was that of his Government,) that the proposals might be rendered acceptable by some modifications very important to Great Britain, and not at all so, as he supposed, to the primary object in view by the United States. The modifications were these:

1. That any treaty or convention, built up upon the proposals as I had submitted them, should be limited in duration, say to eight, ten, or twelve years, with liberty to each party to be absolved from its stipulations on a notice of three or six months, as in the late arrangement respecting the reciprocal dismantlement of naval armaments upon the lakes.

2. That the British boarding officer, entering American ships at sea for a purpose justified under the laws of nations, should have the liberty of calling for the list of the crew; and, if he saw a seaman known to him, or on good grounds suspected to be an Englishman, that he should have the further privilege of making a record or *proces verbal* of the fact, in such way as to have the case distinctly brought under the notice of our Government, though by no means withdrawing the man from the ship.

The latter regulation, his Lordship observed,

would operate as a further incentive to the faithful execution of our home prohibitions for excluding British subjects from our vessels; and the former guard against any irrevocable relinquishments by Great Britain, which the opinions, or even the prejudices, of the country might not, upon trial, be found to bear.

I naturally infer that this Government, reviewing its late decision, and seeing, at last, the unexceptionable and perfect fairness of the offers of the United States, has made up its mind to abandon, in effect, the great principle, or at least practice, to which, with an injustice so tenacious, it has long clung—that of forcing the man from under the sacred cover of our flag; and that ground has been broken, in the above interview, to the consummation of a change so auspicious in the councils of this nation. The first modification seems to me unobjectionable. The second is open to considerations which I do not at all like; yet it comes as a first suggestion, and we may, therefore, hope to get rid of it altogether. As Mr. Gallatin will be here so soon, I forbore to offer to his Lordship any opinion, not feeling myself now at liberty to speak upon the subject singly; but joining, nevertheless, in the renewed anxiety to see it brought within the pale of our approaching discussions, and stating that I thought fair ground was laid for its admission. I take leave of the subject, therefore, until my endeavors, jointly with those of Mr. Gallatin, shall be resumed upon it, having been first led to this communication for the President's early information on a question of so much interest. My despatch of the 26th of June will show that some intimation was thrown out, at that time, of an intention on the part of this Government to give, in writing, its objections to our propositions; instead of which, more just views of them would happily seem to have risen up.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, August 28, 1818.

Mr. Gallatin got here on the 16th of this month. On the following day I addressed a note to Lord Castlereagh, announcing his arrival. His Lordship was at his country seat, thirteen miles from London, but invited us to an informal conference there on the 22d. We went accordingly, and remained all night. Nothing could have been more cordial than the reception given to us. Mr. Robinson and Mr. Goulburn were present. The several subjects of the negotiation were talked over in general terms, and in a spirit which, we think, promises well for the friendly manner in which, at all events, it will be conducted.

The full powers of Mr. Robinson and Mr. Goulburn having in the meantime been made out, our first official meeting took place yesterday at the office of the Board of Trade. Nothing of importance passed, beyond a recapitulation of the points which the two Governments desire to bring into discussion, and some attempts to settle the order in which the negotiation should proceed.

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The points consist of all such as have been given in charge to us, and which have been heretofore mentioned in my despatches, including impressment, and other maritime questions incident to a state of war.

I content myself at present with stating thus generally, for the President's information, that the negotiation has opened. What relates to its progress will, I presume, no longer be expected from me singly, but in joint communications with Mr. Gallatin.

I ought not to omit to mention that the point of impressment was brought forward by Lord Castlereagh, at the first interview held at his house, on the 22d. The next meeting takes place to-morrow.

There are some of the points which must stand still until we are in possession of our further instructions.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, October 12, 1818.

At the joint meeting which took place on the 9th, nothing decisive was determined upon. Premising that no opinion which I give at this stage of the negotiation must be taken as at all binding, I will barely say that I think the prospect of coming to any agreement on an article regulating our trade with the West Indies grows more and more faint. We are to have another conference to-morrow.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, October 19, 1818.

I hasten to communicate to you, for the information of the President, that, at a conference we have this day had with the British Plenipotentiaries, from which I have just returned, it has been agreed to conclude a treaty, comprehending an arrangement of the following points:

1st. The fisheries; 2d. The north-western boundary line; 3d. That about Columbia river; 4th. The question of slaves; and 5th. A renewal for ten years of the present commercial convention.

The treaty will probably be reduced to form, and signed to-morrow.

*Extracts of a letter from Messrs. Gallatin and Rush to the Secretary of State, dated*

LONDON, October 20, 1818.

We have the honor to transmit a convention which we concluded this day with the British Plenipotentiaries.

Lord Castlereagh having expressed a wish that the negotiations might be opened before his departure for Aix-la-Chapelle, Mr. Gallatin left Paris as soon as he had received our full powers, and arrived here on the 16th of August. Our joint instructions contained in your despatch of the 28th of July did not, however, reach us till the 3d of September. We had long conversations with Lord Castlereagh at his country seat,

on the 22d and 23d of August, but could not, owing to our instructions not having arrived, discuss with him the questions of the fisheries and of the West India intercourse. He left London on the 1st of September. The official conferences had begun on the 27th of August, and, for the progress of the negotiation, we beg leave to refer to the enclosed copies of the protocol, and documents annexed to it, and of two unofficial notes sent by us to the British Plenipotentiaries. We will add some observations on the several objects embraced by the convention.

1. *Fisheries.*

We succeeded in securing, besides the right of taking and curing fish within the limits designated by our instructions as a *sine qua non*, the liberty of fishing on the coasts of the Magdalen islands, and on the western coast of Newfoundland, and the privilege of entering for shelter, wood, and water, in all the British harbors of North America. Both were suggested as important to our fishermen, in the communications on that subject which were transmitted to us with our instructions. To the exception of the exclusive rights of the Hudson's Bay Company we did not object, as it was virtually implied in the treaty of 1783, and we had never, any more than the British subjects, enjoyed any right there—the charter of that company having been granted in the year 1670. The exception applies only to the coasts and their harbors, and does not affect the right of fishing in Hudson's Bay beyond three miles from the shores, a right which could not exclusively belong to, or be granted by, any nation.

The most difficult part of the negotiation related to the permanence of the right. To obtain the insertion in the body of the convention of a provision declaring expressly that that right should not be abrogated by war, was impracticable. All that could be done was to express the article in such manner as would not render the right liable to be thus abrogated. The words "for ever" were inserted for that purpose, and we also made the declaration annexed to the protocol of the third conference, the principal object of which was to provide in any event for the revival of all our prior rights. The insertion of the words "for ever" was strenuously resisted. The British Plenipotentiaries urged that, in case of war, the only effect of those words being omitted, or of the article being considered as abrogated, would be the necessity of inserting in the treaty of peace a new article renewing the present one; and that, after all that had passed, it would certainly be deemed expedient to do it, in whatever manner the condition was now expressed. We declared that we would not agree to any article on the subject, unless the words were preserved, or in case they should enter on the protocol a declaration impairing their effect.

It will also be perceived that we insisted on the clause by which the United States renounce their right to the fisheries relinquished by the convention, that clause having been omitted in the first British counter-projet. We insisted on it with

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the view, 1st. Of preventing any implication that the fisheries secured to us were a new grant, and of placing the permanence of the rights secured and of those renounced precisely on the same footing. 2d. Of its being expressly stated that our renunciation extended only to the distance of three miles from the coasts. This last point was the more important, as, with the exception of the fishery in open boats within certain harbors, it appeared, from the communications abovementioned, that the fishing ground, on the whole coast of Nova Scotia, is more than three miles from the shores; whilst, on the contrary, it is almost universally close to the shore on the coasts of Labrador. It is in that point of view that the privilege of entering the ports for shelter is useful, and it is hoped that, with that provision, a considerable portion of the actual fisheries on that coast (of Nova Scotia) will, notwithstanding the renunciation, be preserved.

### 2. *Boundary line.*

This being definitively fixed at the forty-ninth degree of north latitude, from the Lake of the Woods to the Stony mountains, it is unnecessary to repeat the arguments which were urged on that subject. The attempt was again made to connect with it an article, securing to the British access to the Mississippi, and the right to its navigation. We declared, and entered the declaration in the protocol, that we could not agree to the article, nor to any that would bring the British in contact with that river. The British Plenipotentiaries having, by the protocol of the seventh conference, agreed to the omission of the article, that point is also definitively settled. And it may be observed, with reference to the treaty of 1783, that, if the United States have not secured to themselves the whole of the fisheries heretofore enjoyed within the jurisdiction of Great Britain, they have obtained the liberty of curing fish on a part of the southern coast of Newfoundland, and the abandonment of an inconvenient privilege within their own territory.

### 3. *Columbia River.*

This subject was, during the whole negotiation, connected by the British Plenipotentiaries with that of the boundary line. They appeared altogether unwilling to agree to this in any shape, unless some arrangement was made with respect to the country westward of the Stony mountains. This induced us to propose an extension of the boundary line, due west, to the Pacific ocean. We did not assert that the United States had a perfect right to that country, but insisted that their claim was at least good against Great Britain. The forty-ninth degree of north latitude had, in pursuance of the Treaty of Utrecht, been fixed, indefinitely, as the line between the northern British possessions and those of France, including Louisiana, now a part of our territories. There was no reason why, if the two countries extended their claims westward, the same line should not be continued to the Pacific ocean. So far as discovery gave a claim, ours to the whole country on the waters of the Columbia river was

indisputable. It had derived its name from that of the American ship commanded by Captain Gray, who had first discovered and entered its mouth. It was first explored, from its sources to the ocean, by Lewis and Clark, and before the British traders from Canada had reached any of its waters; for it was now ascertained that the river Tacoutche Tesse, discovered by McKenzie, and which he had mistaken for the Columbia, was not a branch of this river, but fell into the sound called the "Gulf of Georgia." The settlement at the place called Astoria was also the first permanent establishment made in that quarter. The British Plenipotentiaries asserted that former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery; and they alluded to purchases from the natives south of the river Columbia, which they alleged to have been made prior to the American Revolution. They did not make any formal proposition for a boundary, but intimated that the river itself was the most convenient that could be adopted, and that they would not agree to any that did not give them the harbor at the mouth of the river, in common with the United States. We stated that we could not agree to this, but expressed our readiness and our wish to insert, in the boundary article, a proviso similar to what had been proposed on former occasions, and which would leave that subject open for arrangement hereafter. To this they would not consent, and offered the article annexed to the protocol of the fifth conference. We declared that we preferred not signing any article for the boundary line eastward of the Stony mountains to acquiescing in that arrangement. We did not know with precision what value our Government set on the country to the westward of those mountains, but we were not authorized to enter into any agreement which would be tantamount to an abandonment of the claim to it. It was at last agreed, but, as we thought, with some reluctance on the part of the British Plenipotentiaries, that the country on the northwest coast, claimed by either party, should, without prejudice to the claims of either, and for a limited time, be opened, for the purpose of trade, to the inhabitants of both countries. The importance which seems to have been attached to that subject by Great Britain induces a belief that it will again be brought forward, at some future occasion, with a view to a definitive arrangement.

### 4. *Slaves.*

After having referred to what had already passed on that subject, we insisted that Lord Castlereagh, having, in his letter to Mr. Adams, of April 10, 1816, declared that "the British Government would not resist the claim of the United States to indemnification for slaves, or private property belonging to their citizens, which could be proved to have been in places directed to be restored by the Treaty of Ghent at the date of the ratifications, and to have been afterwards removed;" and it being in proof, by the correspondence of Captain Clavelle and of Admiral

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Cockburn, that slaves had been removed from Tangier Island and from Cumberland Island subsequent to the ratifications, the claim for indemnification, to that extent, had thus been already fully admitted by the British Government. With respect to slaves removed on ship-board previous to the ratifications, and for which Lord Castlereagh denied that our claim to indemnity could with justice extend, we urged that such of our harbors and waters as were in the possession of the British at the date of the ratifications were strictly within the meaning of places to be restored; that they were accordingly actually restored; and it necessarily followed that, according to Lord Castlereagh's construction, the British were bound not to have carried away any slaves who were then on board British vessels lying within any such harbors or waters.

The British Plenipotentiaries offered as a substitute to the article we had proposed one to refer the subject to a friendly sovereign. This we could not reject, as the proposal had originated with the United States, and was now unconnected with the questions respecting the boundary line and the Columbia river. We proposed that the Emperor of Russia should be designated in the article as the umpire. This was rejected, on the ground that, if he should refuse to act, the agreement would become null; and that it would be inexpedient, if at all practicable, to provide by the article for that contingency, so as to secure the object in view. It was added that the sovereign could be fixed upon at a future day by the two Governments, through Mr. Rush and Lord Castlereagh.

#### 5. *Commercial Intercourse.*

The subject of the intercourse with the West Indies was fully discussed, and, not thinking ourselves authorized to accede to the last proposals of the British Plenipotentiaries, which are annexed to the protocol of the eighth conference, an entry was made that we had taken them *ad referendum* to our Government. The negotiation being kept open, in that respect, we agreed, in conformity with our instructions, to an article, continuing in force for ten years the commercial convention of 1815. It was fully understood, on both sides, that if no agreement should be ultimately concluded with respect to the colonial intercourse, no ground of complaint would arise on account of any restrictive measures whatever that the United States might adopt on that subject; and we stated, expressly, that such measures would, in all probability, be extended to the intercourse with Bermuda and with the British northern colonies; that, if the direct trade with the West Indies was not allowed, the United States would not be disposed to suffer it to be carried on through any other intermediate British port.

It appeared evident to us, both from our instructions and from the act of Congress, that a perfect reciprocity and equality must be the basis, as well as a *sine qua non*, of any arrangement of the intercourse with the West Indies. And

we understood this basis to embrace the following objects:

1. British vessels to be permitted to import from the British West Indies into the United States, and to export from the United States to the British West Indies, only such articles of the produce of the said West Indies and of the United States, respectively, as American vessels should be permitted to export from and to import into the British West Indies.

2. The duties on the vessels and on the cargoes to be reciprocally the same, whether the vessels were American or British.

3. The duties on the importation of American produce into the British West Indies not to be higher when the produce was imported directly from the United States than when imported in a circuitous manner; with a reciprocal condition for the importation of West India produce into the United States.

4. The intercourse in British vessels to be allowed only with such West India ports as would be opened to the American vessels.

5. The British vessels allowed to carry on that trade to be only of the same description with the American vessels admitted in the British West Indies.

To that basis, as thus stated, the British Plenipotentiaries acceded. But when the further details of the proposed arrangement were taken into consideration, several important points occurred which had not been contemplated in our instructions, and on which we were not sufficiently acquainted with the intentions of our Government.

The basis of reciprocity once established, was it proper to agree to a direct intercourse, limited, on both sides, to certain articles of the produce either of the United States or of the West Indies? And if such limitation was admissible, to what extent? And what articles might we consent to except?

If the direct intercourse was thus limited to certain articles, would an indirect intercourse be admissible, between the United States and Bermuda, Nova Scotia, New Brunswick, embracing articles of West India produce, or of the produce of the United States, destined for the West Indies, other than were admitted to be imported or exported in a direct manner?

As the British Government would retain the power of laying duties on the produce of the United States imported into the West Indies, and would not lay any on similar articles imported therein from any part of the British dominions, ought we to assent, without any condition or exception, to the clause annexed to the first article, formerly proposed by that Government, and by which no higher duties should be laid respectively, on the produce of either country, than on similar articles imported from any other foreign country?

We thought it safer to err on our own side of the question, and to ask for more than perhaps under all circumstances we expected to obtain, rather than to limit our demands to less than might be intended by our Government. The articles which we proposed at the third conference

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were drawn with that view; and the British Plenipotentiaries immediately stated that they were inadmissible, and amounted to a much greater departure from the colonial policy of Great Britain than she was prepared to allow. They did not enter into any abstract defence of that policy, but they strongly urged the impossibility of breaking down, at once, a system still favored by public opinion, and supported by various interests which could not be disregarded. The fish and lumber of the northern colonies, the salted provisions, and even the flour of Ireland, the shipping interest, and that of non-residing West India planters, were all alluded to. Having once admitted the basis of perfect reciprocity with respect to the direct intercourse, they thought that the United States ought, for the present, to be satisfied with an arrangement which would admit a considerable number of articles to be carried directly; that they should not insist on the exclusion, in the intercourse with Halifax, St. John's, and Bermuda, of those articles which might not be included in the list of those admitted in the direct intercourse with the West Indies; and that we ought not to object to the natural right of Great Britain to lay protecting duties in favor of the produce of her own possessions.

We admitted that the last principle, as an abstract proposition, was unexceptionable, but observed, that the practical effect of the condition on which they insisted was altogether partial. Since they persevered in making a distinction between the intercourse with England and that with her colonies, and even between that with her northern American colonies and that with the West Indies, the United States must, in a commercial view, consider them as so many distinct countries. As no other foreign country could supply the West Indies with the articles which were the produce of the United States, a condition which would prevent Great Britain from laying higher duties on that produce than on similar articles the produce of other foreign countries, was nugatory, and to us perfectly useless. There was, in that respect, no competition but with the produce of the British possessions. We found, in that condition, no compensation for the restriction which it would impose on the United States to lay no higher duties on the colonial produce of the British possessions than on that of other countries. The propriety of limiting the number of articles to be carried directly, would in a great measure depend on the list which might be proposed. To extend it to other articles, in the circuitous intercourse through Halifax and Bermuda, would give to the British the exclusive carriage of those articles from those ports to the West Indies, and *vice versa*, and be inconsistent with the avowed object of the United States—that of an equal participation in the navigation necessary for the transportation of the articles of which their trade with the West Indies, as allowed by Great Britain, actually consisted. Yet we were disposed to pay due regard to the various considerations which had been presented by Great Britain, and to listen to any

specific proposals she might be prepared to make. No part of the articles we had offered was, with the exception of the basis of perfect reciprocity, to be considered as an ultimatum. We would, however, say that we could not assent to any article which did not admit, on the one hand, naval stores and the whole of our lumber, and, on the other, salt, molasses, and, besides rum, a limited quantity of sugar and coffee, amongst the articles of the direct trade.

With respect to duties, after having suggested without success that a maximum of those intended for the protection of the produce of the British dominions might be agreed on, we stated that there were at least two provisions which could not be objected to, viz., that the United States should remain at liberty to lay higher duties on the colonial produce of the British possessions than on that of those countries where we were or might be received on better terms than in the British West Indies; and that the condition which would preclude generally such higher duties being laid should not apply to the West India articles not admitted to be exported directly therefrom in American vessels to the United States.

The result of several free conversations was, that, as it was altogether improbable that we could, at this time, come to a definitive arrangement, the British Plenipotentiaries should offer an article with the intention of its being referred to our Government.

It will be perceived by this, that they admit the principle of reciprocity; that they make no exception with respect to the description of vessels; that, giving up the article formerly proposed for Turk's Island, they also admit that vessels employed in the trade may touch from one port to another, and that to the list of articles formerly proposed are added naval stores, shingles, and staves, and a more general description of provisions. They continue to except altogether, on the one hand, sugar and coffee, and, on the other, salted fish and provisions, and every other species of lumber but shingles and staves. The only essential difference between this list of articles and that proposed for the intercourse with Bermuda and the northern colonies consists, as far as relates to the produce of the United States, in the lumber not admitted in the direct intercourse; for salted fish and provisions are equally excluded from both; but it is proposed that not only sugar and coffee, but also all articles of the produce or manufacture of any of the British dominions, should be admitted through that indirect channel into the United States. We stated, when we received the article, that it ought to embrace only American products, and that the proposal was certainly inadmissible so far as related to East India articles.

With respect to the ports they offer in the West Indies, they are the same with those proposed by us, with the exception of St. Christopher's, St. Lucia, Demarara, Esequibo, and Berbice. The three last had been at first intended to be included, but were ultimately omitted by

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the British Plenipotentiaries, for reasons connected, as they said, with their engagements with Holland.

We cannot state what may be considered as an ultimatum in that proposal. We are, however, induced to believe that they will persevere in excluding sugar and some species of lumber from the direct, and salted fish and provisions from both the direct and indirect intercourse; that they will insist on having some articles admitted in that indirect, which shall be excluded from the direct intercourse; and that they will be tenacious on being placed on the footing of the most favored nation. They will also certainly insist that vessels from Great Britain may touch at any port in the United States, and take cargoes for the West Indies of such articles as may be admitted in the direct trade. Without such provision (which would be made reciprocal, although only nominally so,) it is supposed here, that, considering our proximity, to admit our vessels to a participation on an equal footing in the trade between the United States and the West Indies, would, in fact, give the latter the whole navigation connected with that trade. It must, at the same time, be observed, that the proposal being intended for reference, and not for immediate discussion, the British Plenipotentiaries may have been cautious not to go too far. Upon the whole, we hope that, if our negotiation does not pave the way for a definitive arrangement, it will at least have served to make our Government better acquainted with the dispositions of this, and may afford some assistance with respect to the further proceedings which may be thought expedient.

It having been ascertained that the British Government would not assent to any article on the subject of the intercourse by land and inland navigation with Canada, which would substantially differ from that already twice rejected, and that they would not even agree to a provision securing to us the right of taking our produce in our own boats or vessels down the St. Lawrence as far as Montreal, and down the river Chambly as far as the river St. Lawrence, we thought it altogether unnecessary to make any proposal on that subject, on which, indeed, we were not particularly instructed.

## No. 1.

*Protocol of the first conference between the American and British Plenipotentiaries, held at Whitehall, on the 27th of August, 1818.*

Present: Mr. Gallatin and Mr. Rush, American; and Mr. Robinson and Mr. Goulburn, British.

The Plenipotentiaries presented and exchanged their respective full powers.

It was agreed that the discussions should be carried on by conference and protocol, with the insertion in the protocol of such written documents as either party might deem necessary, for the purpose of recording their sentiments in detail.

The British Plenipotentiaries stated that they

were ready to proceed at once to the signature of a treaty, renewing the commercial convention of 1815 as it stands; or, that if the American Plenipotentiaries should prefer to delay the signature of such a treaty of renewal till more progress should have been made in the discussion of the other topics which it is the object of the two Governments to arrange, no objection would be made to the adoption of that course. But it was explicitly stated by the British Plenipotentiaries, that, with respect to all those other topics of discussion, whether purely commercial, or partaking more of a political character, they were instructed not to consent to any partial or separate consideration of them, nor to select any one in particular, as an appendage to a renewal of the existing commercial convention.

The American Plenipotentiaries acquiesced in the division of the subject, represented by the British Plenipotentiaries to be essential, but stated it to be their desire not to sign the treaty of renewal for the present. It was, however, agreed that the eventual signature of that instrument should not be made contingent upon a settlement of the other points, and both parties declined bringing forward any proposed modification of it.

It was agreed to meet again on Saturday at two o'clock.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK JOHN ROBINSON,  
HENRY GOULBURN.

## No. 2.

*Protocol of the second conference held between the American and British Plenipotentiaries, at Whitehall, on the 29th of August, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The Plenipotentiaries agreed upon and signed the protocol of the preceding conference. Some general conversation then ensued upon some of the different topics of discussion.

The American Plenipotentiaries stated that, whenever the British Plenipotentiaries were prepared to submit their project on the impressment question, they (the American Plenipotentiaries) would bring forward their proposition respecting the other maritime points; but that they did not intend to bring those topics before the conferences at all, unless the impressment of seamen was to be discussed on the part of Great Britain.

It was agreed that the next conference should take place on September 4th.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK JOHN ROBINSON,  
HENRY GOULBURN.

## No. 3.

*Protocol of the third conference held between the American and British Plenipotentiaries, at Whitehall, on the 17th day of September, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

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The conference fixed for the 4th instant having been adjourned by mutual consent, it was held this day.

The protocol of the preceding conference was agreed upon and signed.

The American Plenipotentiaries, after some previous explanation of the nature of the propositions which they were about to make, submitted the five annexed articles, (A, B, C, and D,) upon the fisheries, the boundary line, the West India intercourse, that of Nova Scotia and New Brunswick, and the captured slaves. The two first articles they stated to be drawn as permanent; and they accompanied that respecting the fisheries with the annexed explanatory memorandum. (E.)

The British Plenipotentiaries submitted the annexed projet of articles respecting the impressment of seamen, (F.); and they expressed their conviction that a consideration of these articles would, under all the circumstances of difficulty with which the question is involved, satisfy the American Plenipotentiaries of the sincere and earnest disposition of the British Government to go to every practicable length in a joint effort to remove all existing causes of difference, and to connect the two countries in the firmest ties of harmony and good understanding.

The American Plenipotentiaries declared that they received the proposition entirely in the same spirit; and then brought forward the annexed articles, (G.) relating to other maritime points, which, at the former conference, they had announced their intention of producing.

They also submitted three other articles, as annexed, respecting wrecks, &c. (H.)

It was agreed to meet on Friday, the 25th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FRED. J. ROBINSON,  
HENRY GOULBURN.

## ARTICLE A.

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America: It is agreed between the high contracting parties that the inhabitants of the said United States shall continue to enjoy unmolested, forever, the liberty to take fish, of every kind, on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea islands, and the western and northern coast of Newfoundland, from the said Cape Ray to Quirpon Island, on the Magdalen islands; and also on the coasts, bays, harbors, and creeks from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence, northwardly, indefinitely, along the coast; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland here above described, of

the Magdalen islands, and of Labrador, as here above described; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground; and the United States hereby renounce any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, and harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait, but under such restrictions as may be necessary to prevent their drying or curing fish therein, or in any other manner abusing the privilege hereby reserved to them.

## ARTICLE B.

It is agreed that a line drawn due north or south, as the case may require, from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of His Britannic Majesty to the westward of the said lake; and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of His Britannic Majesty's said territories, from the said lake to the Pacific ocean; it being, however, distinctly understood that, with respect to the territories situated on the northwest coast of America, or westward of the Stony mountains, the two high contracting parties intend hereby to define the extent of their respective claims so far only as relates to the two parties, and without reference to the claims of any other nation.

The inhabitants of the two countries, respectively, shall have liberty freely to come with their ships and cargoes to all such places, ports, and rivers, on the northwest coast of America, as belong to or may be in the possession of either of the two high contracting parties, and shall be admitted and treated, with respect to their said ships and cargoes, and to trade generally, on the same terms and in the same manner as the inhabitants, vessels, and cargoes of the country owning or having possession of such places, ports, or rivers. The navigation of the rivers that fall into the Pacific ocean, and which may be intersected by the line of demarcation aforesaid, shall, from the sources of such branches as may be thus intersected, to the ocean, remain free and open to the citizens of the United States and to the subjects of Great Britain. But both parties reserve to themselves the power of regulating, each within their respective territories, the right to the navigation of the rivers that fall into the Gulf of Mexico or into Hudson's Bay.



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## ARTICLE C.

It is agreed that vessels of the United States shall have liberty to import from any of the ports of the United States to which any foreign vessels are permitted to come, into any of the following ports of His Britannic Majesty's dominions in the West Indies, and on the continent of South America, viz: the ports of Kingston, Savannah La Mar, Montego bay, Santa Lucia, Antonio, Saint Anne, Falmouth, and Porto Maria, in the island of Jamaica; the port of San Joseph, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of St. George, in the island of Granada; the port of Kingston, in the island of St. Vincent; the port of Bridgetown, in the island of Barbadoes; the principal port in the island of St. Lucia; the port of Roseau, in the island of Dominica; the port of St. John's, in the island of Antigua; the port of Basseterre, in the island of St. Christopher's; the port of Road Harbor, in the island of Tortola; the principal port of Turk's Island; the port of Nassau, in the island of New Providence; the port of Pittstown, in Crooked Island; the principal port of the island of Bermuda; the principal port in the colony of Demarara, and the principal port in the colony of Berbice, tobacco, naval stores, live stock, and every species of provisions and lumber, being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to import in the same manner every other article of the growth, produce, or manufacture of the United States, the importation of which into the above-mentioned British islands and colonies shall not be entirely prohibited from every other place whatever, if of the growth, produce, or manufacture of the United States, and from every other foreign country or place, if of the growth, produce, or manufacture of any other foreign country or place. The said vessels coming directly from any of the aforesaid ports of the United States shall likewise have liberty to export from any of the aforesaid ports of His Britannic Majesty's dominions to any of the aforesaid ports of the United States, sugar, coffee, molasses, and salt, being of the growth, produce, or manufacture of the above-mentioned British islands and colonies; and the said vessels shall also have liberty to export, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said British islands and colonies to every other foreign country or place shall not be entirely prohibited: *Provided, however,* That the quantity of sugar and coffee which may be thus exported shall not, for each vessel, exceed the rate of five hundred weight of both together for each ton of the burden of such vessel.

British vessels shall in the same manner, have liberty to import from any of the aforesaid ports of His Britannic Majesty's dominions, into any of the aforesaid ports of the United States, sugar, coffee, molasses, and salt, being of the growth, produce, or manufacture of the above-mentioned British islands and colonies; and the said vessels

shall also have liberty to import, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said islands and colonies to the United States shall be allowed in vessels of the United States, and the importation of which into the said United States from every foreign country or place shall not be entirely prohibited: *Provided, however,* That the quantity of sugar and coffee which may be thus imported shall not exceed, for each vessel, the rate of five hundred weight of both together, for each ton of the burden of such vessel. The said vessels, coming directly from any of the aforesaid ports of His Britannic Majesty's dominions, shall likewise have liberty to export, from any of the aforesaid ports of the United States to any of the aforesaid ports of His Britannic Majesty's dominions, tobacco, naval stores, live stock, and every species of provisions and lumber, being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to export, in the same manner, every other article, the growth, produce, or manufacture of the United States, the importation of which into the said British ports from the said United States shall be allowed in vessels of the United States, and the exportation of which from the said United States to every foreign country or place shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article shall be admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the ports above mentioned of the other party, for the purpose of disposing of their inward, or of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation into the United States of any of the articles which may be imported therein by virtue of this article, when imported in British vessels, than when imported in vessels of the United States; nor when imported directly from the above-mentioned ports of His Britannic Majesty's dominions, than when imported in a circuitous manner. And no other or higher duties shall be paid on the importation into the above-mentioned ports of His Britannic Majesty's dominions, of any of the articles which may be imported therein by virtue of this article, when imported in vessels of the United States, than when imported in British vessels, nor when imported directly from the United States, than when imported in a circuitous manner.

The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported either from the above-mentioned British islands and colonies to the United States, or from the said United States to the said islands and colonies, whether such exportation shall be in vessels of the United States or in British ves-

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sels. And the articles thus exported shall, in the dominions of both parties, respectively, pay the same duties, and be allowed the same bounties on the exportation thereof, as when exported to any other foreign country or place whatever.

ARTICLE. British vessels shall have liberty to export from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in His Britannic Majesty's province of Nova Scotia; to the port of St. John's, in His Britannic Majesty's province of New Brunswick; and to any other port within the said provinces of Nova Scotia or New Brunswick, to which vessels of any other foreign nation shall be admitted, any article of the growth, produce, or manufacture of the United States, the importation of which from the said United States into His Britannic Majesty's dominions in the West Indies and on the continent of South America, shall be allowed in vessels of the United States, by virtue of the next preceding article of this treaty, and the exportation of which from the United States to every other foreign country or place shall not be entirely prohibited; and vessels of the United States shall, in like manner, have liberty to import from any of the aforesaid ports of the United States, into any of the aforesaid ports within the said provinces of Nova Scotia and New Brunswick, any of the articles the growth, produce, or manufacture of the said United States, the exportation of which from the said United States to the said provinces shall be allowed in British vessels, and the importation of which into the said provinces from every other foreign country or place shall not be entirely prohibited.

British vessels shall also have liberty to import from any of the said ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones the produce or manufacture of the said provinces; and they shall likewise have liberty to import in the same manner any other article of the growth, produce, or manufacture of the said provinces, the exportation of which from the said provinces to the United States shall be allowed in vessels of the United States, and the importation of which into the said United States from every other foreign country shall not be altogether prohibited. And vessels of the United States shall have liberty to export from the said provinces to the said United States gypsum and grindstones, the produce or manufacture of the said provinces; and they shall likewise have liberty to export, in the same manner, any other article of the growth, produce, or manufacture of the said provinces, the exportation of which to every other foreign country shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article shall be admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party. The same duties shall also be paid, respectively,

in the dominions of both parties on the importation and on the exportation of the articles which may be imported or exported by virtue of this article, and the same bounties shall also be allowed on the exportation thereof, whether such importation or exportation shall be in vessels of the United States or in British vessels.

## ARTICLE D.

Whereas complaints have been made by divers inhabitants of the United States, that several slaves, their private property, were carried away from the United States, contrary to the intentions of the first article of the treaty of peace and amity concluded at Ghent, between the two high contracting parties, on the twenty-fourth day of December, one thousand eight hundred and fourteen, it is agreed that full compensation shall be made by the British Government to the said complainants for all slaves, their private property, who, at the date of the exchange of the ratifications of the said treaty, were in any territories, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, and who were afterwards removed or carried away by the said forces, whether such slaves as aforesaid were, at the date aforesaid, on shore or on board any vessels lying in waters which, being within the territory or jurisdiction of the United States, were to be restored to them. And, for the purpose of truly ascertaining the number and value of the said slaves, three commissioners shall be appointed, and authorized to meet and act in manner following, that is to say: one shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and one by His Britannic Majesty; and the said two commissioners shall agree on the choice of a third; or, if they cannot so agree, they shall each propose one person; and, of the two names so proposed, one shall be drawn by lot, in the presence of the two original commissioners. The three commissioners thus appointed shall first meet in the City of Washington, but shall have power to adjourn from place to place, as they shall see cause. They shall have power to appoint a secretary, and, before proceeding to act, shall, respectively, take the following oath or affirmation, in the presence of each other; which oath or affirmation, being duly taken and attested, shall be entered on the record of their proceedings; that is to say: "I, A. B., one of the commissioners appointed in pursuance of the — article of the treaty of —, between the United States and His Britannic Majesty, do solemnly swear [or affirm] that I will diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide all such complaints or applications as, under the said article, shall be preferred to the said commissioners." Two of the said commissioners shall constitute a board, provided they be those named by the respective Governments; and vacancies, caused by death or otherwise, shall be filled up in the manner of the original appoint-

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ments; and the new commissioners shall take the same oath or affirmation, and do the same duties. Twelve months, from the day on which the said commissioners shall form a board, are assigned for receiving complaints and applications; but they are, nevertheless, authorized, in any particular cases in which it shall appear to them reasonable and just, to extend the said term for any term not exceeding six months after the expiration thereof. In examining the complaints and applications preferred to them by the owners of slaves, or their lawful attorneys or representatives, the said commissioners are empowered and required, in pursuance of the true intent and meaning of this article, to examine, on oath or affirmation, all such persons as shall come before them, touching the real number and value of the slaves alleged to have been carried away as aforesaid; and also to receive in evidence, according as they may think consistent with equity and justice, written depositions, being duly authenticated, either according to existing legal forms, or in such other manner as the said commissioners shall see cause to require or allow.

The award of the said commissioners, or any two of them, shall, in all cases, be final and conclusive, whether as to the number, the value, or the ownership of the slaves carried away as aforesaid. And His Britannic Majesty undertakes to cause the sum awarded to each and every owner, in lieu of his slave or slaves, as above described, to be paid, without deduction, at such time or times, and at such place or places, as shall be awarded by the said commissioners, and on condition of such releases being given as they shall direct: *Provided*, That no such payments shall be fixed to take place sooner than twelve months from the day of the exchange of the ratifications of this treaty. It is further agreed that the said commissioners shall be respectively paid in such manner as shall be agreed between the two parties; such agreement to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the execution of the commission shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the commissioners.

## E.

*Explanatory Memorandum.*

The American Plenipotentiaries presented for consideration an article on the subject of certain fisheries. They stated, at the same time, that, as the United States considered the liberty of taking, drying, and curing fish, secured to them by the treaty of peace of 1783, as being unimpaired, and still in force for the whole extent of the fisheries in question, whilst Great Britain considered that liberty as having been abrogated by war; and as, by the article now proposed, the United States offered to desist from their claim to a certain portion of the said fisheries, that offer was made with the understanding that the article now proposed, or any other on the same subject which might be agreed on, should be considered as perma-

nent, and, like one for fixing boundaries between the territories of the two parties, not to be abrogated by the mere fact of a war between them; or that, if vacated by any event whatever, the rights of both parties should revive and be in full force, as if such an article had not been agreed to.

## F.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., &c., and the President of the United States of America, being animated with an equal desire to remove, by amicable regulations, the inconveniences which have arisen from the difficulty of discriminating between the subjects of the two Powers, respectively, have determined to proceed, without prejudice to the rights of either Power, to frame such conventional arrangements as may obviate the evils which might hereafter again result from the circumstances above stated to the public service, the commerce, or subjects of either of the contracting parties. In pursuance of so desirable an object, his said Majesty and the President of the United States have nominated Plenipotentiaries to discuss and sign a treaty to this effect.

His Majesty the King of the United Kingdom of Great Britain and Ireland has nominated the Right Honorable Frederick John Robinson, &c., &c., &c., and Henry Goulburn, Esq., &c., &c., &c.; and the President of the United States has nominated Albert Gallatin, Esq., &c., &c., &c., and Richard Rush, Esq., who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ART. 1. The high contracting parties engage and bind themselves to adopt without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for excluding the natural born subjects of either party from serving in the public or private marine of the other: *Provided, always*, That nothing contained in this article shall be understood to apply to such natural born subjects of either Power as may have been naturalized by their respective laws previous to the signature of the present treaty; and such measures, when adopted, shall be immediately communicated to each party, respectively.

ART. 2. For the better ascertaining the number of persons on either side that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within twelve months from the ratification of the present treaty, a list of all persons falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is further agreed that none other than the persons whose names shall be included in the said lists shall be deemed to fall within the said exception.

ART. 3. The high contracting parties, however, reserve to themselves the power to authorize and permit, by proclamation, their respective subjects or citizens to serve in the public or private marine of the other country. And it is hereby expressly understood that, so long as such permission shall

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remain in force, it shall be competent for the Government of the other Power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service; *Provided, always*, That whenever the Power so granting permission to the said subjects or citizens to serve in the marine of the other shall withdraw the same, notification thereof shall forthwith be made to the other contracting party; and, on receipt of such notification, the Power receiving the same shall forthwith notify it in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects of the other party from further serving in its public or private marine, and shall enforce the exclusion of the said subjects of the other Power as may then be in its service, as if no such permission had been promulgated.

ART. 4. In consideration of the stipulations contained in the preceding articles, it is agreed by the high contracting parties that, during the continuance of the present treaty, neither Power shall impress or forcibly withdraw, cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other Power, when met upon the high seas, on any plea or pretext whatsoever: *Provided always*, That nothing contained in this article shall be construed to apply to the vessels of either Power which may be within the ports or within the maritime jurisdiction of the other: *And, also, provided*, That nothing herein contained shall be construed to impair or effect the established right of search as authorized in time of war by the law of nations.

ART. 5. The high contracting parties have agreed to extend the duration of the present treaty to ten years; and they reserve to themselves to concert as to its renewal at such convenient period, previous to its expiration, as may insure to their respective subjects the uninterrupted benefit which they expect from its provisions: *Provided, always*, That either Power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

ART. 6. It is agreed that nothing contained in the preceding articles shall be understood to affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended by the said articles. And whenever the present treaty shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made.

## G.

(a) Whenever one of the high contracting parties shall be at war, any vessel of the other

party sailing for a port or place belonging to an enemy of the first party, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless, after such notice, she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper. No vessel or cargo shall be condemned for breach of a blockade, unless captured by one of the blockading ships, or unless she shall attempt to enter after notice as aforesaid. Nor shall any vessel or goods of either party, that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof. And, in order to determine what characterizes a blockade, it is agreed that that denomination shall apply to a port where there is, by the disposition of the Power which blockades it, with ships stationary or sufficiently near, an evident danger in entering.

(b.) Whereas differences have heretofore arisen concerning the trading with the colonies of His Britannic Majesty's enemies, and the instructions given by His Majesty to his cruisers in regard thereto, it is agreed that, whenever His Britannic Majesty shall be at war, all articles, not being contraband of war, may be freely carried from the ports of the United States to the ports of any colony not blockaded belonging to His Majesty's enemies: *Provided*, Such goods as are not of the growth, produce, or manufacture of the United States, shall previously have been entered and landed in the United States, and the ordinary duties on such articles, so imported for home consumption, shall have been paid, or secured to be paid; and the said goods, on re-exportation, shall, after the drawback, remain subject to a duty equivalent to not less than one per cent. ad valorem; and that the said goods, and the vessels conveying the same, shall, from the time of their clearance from the port of the United States, be *bona fide* the sole property of citizens of the United States; and, in like manner, that all articles not being contraband of war, and being the growth or produce of the colonies of His Britannic Majesty's enemies, may be brought to the United States, and, after having been there landed, may be freely carried from thence to any foreign port not blockaded: *Provided*, Such goods shall previously have been entered and landed in the United States, and the ordinary duties on colonial articles, so imported for home consumption, shall have been paid or secured to be paid; and that the said goods, except only mahogany and fustic, shall, on re-exportation, after the drawback, remain subject to a duty equivalent to not less than two per cent. ad valorem: *And provided*, That the said goods, and the vessels conveying the same, be *bona fide* the sole property of citizens of the United States: *Provided always*, That this article, or anything contained therein, shall not affect any question now or hereafter judicially pending,

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touching the legality or illegality of a direct trade from Europe, or other foreign countries, by citizens of the United States, with the colonies or possessions of His Britannic Majesty's enemies beyond the Cape of Good Hope, nor operate to the prejudice of any right belonging to either party; but that, after the expiration of the time limited for this treaty, the rights on both sides shall revive and be in full force.

(c.) In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea, such as cannon, mortars, muskets, pistols, and other fire arms, petards, bombs, grenades, carcasses, saucisses, rockets, carriages for cannon, firelocks, musket rests, bandoliers, gunpowder, saltpetre, sulphur, matches, balls, and bullets, helmets or head-pieces, cuirasses, swords, pikes, halberts, lances, javelins, saddles, bridles, and other horse furniture, holsters, pouches, belts, and generally all other implements of war, excepting, however, the quantity of the said articles which may be necessary for the defence of the ship, and of those who compose the crew; but all such articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy. But no vessel shall be detained on pretence of carrying contraband of war, unless some of the above-mentioned articles are found on board of the said vessel at the time it is searched.

(d.) In all cases where one of the high contracting parties shall be at war, the armed vessels belonging to such party shall not station themselves, nor rove or hover, nor stop, search, or disturb the vessels of the other party, or the unarmed vessels of other nations, within the chambers formed by head-lands, or within five marine miles from the shore belonging to the other party, or from a right line from one head-land to another.

(e.) Whenever one of the contracting parties shall be at war, and where vessels of the other party shall be captured or detained by the ships of war or privateers of the belligerent for any lawful cause, the said vessels shall be brought to the nearest or most convenient port, and such part only of the articles on board as are subject to condemnation by the law of nations shall be made prize; and the vessels, unless by that law also subject to condemnation, shall be at liberty to proceed with the remainder of the cargo without any impediment.

In all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial. All proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners of such ships or cargoes. And whenever sentence shall be pronounced against any vessel thus captured or detained, or against her

cargo, or part thereof, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered, without the smallest delay, to the commander of the said vessel, or to the owner thereof, or to the agent of either, on the payment of all legal fees and demands for the same.

The commanders of ships of war and privateers of the belligerent party, shall, in searching of merchant ships of the other party, conduct themselves according to the acknowledged principles and rules of the law of nations, and as favorably, moreover, as towards the most friendly Power that may remain neuter. The said commanders, their officers and crews, shall forbear doing any damage to the subjects or citizens of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound, in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall be compelled to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of two thousand two hundred and fifty pounds sterling, or of ten thousand dollars; or, if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of four thousand five hundred pounds sterling, or of twenty thousand dollars, to satisfy all damages and injuries which the said privateers, or officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct; and further, that, in all cases of unlawful aggressions, the said commissions shall be revoked and annulled.

(f.) The ships of war and privateers of the two nations, as well as their prizes, shall be treated, in their respective ports, as those of the most favored nation.

It shall not be lawful for any foreign privateers, who have commissions from any Power or State at war with either of the two nations, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Power or State from whom they obtained their commissions.

(g.) It is likewise agreed that the subjects of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions so to act from any foreign Power or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in the military service, any of the subjects or citizens of the other party.

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The laws against all such offences and aggressions shall be punctually executed; and if any subject or citizen of the said parties, respectively, shall accept any foreign commission or letters of marque for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letter of marque as a pirate.

## H.

(h.) In the event of a shipwreck happening in a place belonging to either of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects belonging to them, and which may be saved either from on board the ship, or in any other manner whatever, shall not be concealed, nor detained, under any pretext whatever. On the contrary, the above-mentioned effects and merchandise shall be preserved and restored to them, upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, or effects.

(i.) It is expressly stipulated that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, the same shall have been either refused or unreasonably delayed.

(k.) If at any time a rupture should take place (which God forbid) between the United States and His Britannic Majesty, neither the vessels and cargoes, nor other property of any kind, belonging to the individuals of each of the two nations, which may at the time be in the harbors, or ports, or dominions of the other party, nor the debts due from individuals of one of the two nations to individuals of the other, nor shares or moneys which they may have in the public funds,

or in the public or private banks, shall be sequestered or confiscated. And the merchants and others of each of the two nations, residing in the dominions of the other, shall in no case be detained as prisoners of war, but they shall be permitted to remove, with their families, effects, and property; each Government having, nevertheless, the right, during their remaining in its dominions, to make such regulation and to take such precautions as it may deem necessary with respect to such persons.

## 4.

*Protocol of the fourth conference between the American and British Plenipotentiaries, held at Whitehall, on Friday, the 25th of September, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

Explanations were asked, and given respecting some of the articles presented by the American Plenipotentiaries at the last conference.

The American Plenipotentiaries, after observing that the measures already adopted, and the proposals formerly made, by the United States, could leave no doubt of their constant and anxious desire to arrange, by amicable regulations, the subject of impressment, declared their readiness to agree, with some amendments, which they submitted, (A,) to the projet proposed by the British Plenipotentiaries, under a full expectation that an arrangement, thus founded on mutual confidence, could not fail to have a happy effect, both as regarding its immediate object, and in confirming the amicable relations so happily subsisting between the two countries.

It was agreed to meet again on Tuesday, the 6th of October.

ALBERT GALLATIN,  
RICHARD RUSH,  
FRED. JOHN ROBINSON,  
HENRY GOULBURN.

## A.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., &c., and [the President of]<sup>1</sup> the United States of America, being animated with an equal desire to [remove,]<sup>2</sup> by amicable regulations, <sup>3</sup>[inconveniences] which have arisen from the <sup>4</sup>[difficulty of discriminating between the subjects of the two Powers, respectively,] have determined to proceed, without prejudice to the rights of either Power, to frame such conventional arrangements as may obviate the evils which might hereafter again result from the [circumstances]<sup>5</sup> above stated, [to the public service, the commerce, or the subjects of either of the contracting parties.]<sup>6</sup> In pursuance of so desirable an object, his said Majesty and the President of the United have nominated Plenipotentiaries to discuss and sign a treaty to this effect.

His Majesty the King of the United Kingdom of Great Britain and Ireland has nominated the Right Honorable Frederick John Robinson, &c., &c., and Henry Goulburn, Esquire, &c., &c.; and the President of the United States has nominated

*Amendments proposed.*

All words between crotchets to be struck out.

<sup>1</sup>

<sup>2</sup> settle,

<sup>3</sup> differences

<sup>4</sup> employment by either of the two Powers of the subjects or citizens of the other, in their public or private marine, and from the practice of impressment,

<sup>5</sup> causes,

<sup>6</sup>

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Albert Gallatin, Esquire, &c., &c., &c., and Richard Rush, Esquire, who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

## ARTICLE 1.

The high contracting parties engage and bind themselves to adopt, without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for excluding <sup>1</sup>[the natural born subjects of either party from serving in the public or private marine of the other:] *Provided, always,* That nothing contained in this article shall be understood to apply to such natural born subjects<sup>2</sup> of either Power as [may]<sup>3</sup> have been naturalized<sup>4</sup> by <sup>5</sup>[their] respective laws<sup>6</sup> previous to the <sup>7</sup>[signature] of the present treaty. And such measures, when adopted, shall be immediately communicated to each party, respectively.

<sup>1</sup> respectively from serving in their public or private marine the natural born subjects or citizens of the other party

<sup>2</sup> or citizens

<sup>3</sup> shall

<sup>4</sup> with their own consent

<sup>5</sup> the

<sup>6</sup> of either Power

<sup>7</sup> exchange of ratifications

## ARTICLE 2.

For the better ascertaining the number of persons, on either side, that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within [twelve]<sup>1</sup> months from the ratification of the present treaty, a list <sup>2</sup>[of all persons] falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is further agreed that <sup>3</sup>[none other than the person whose names shall] be included in the said lists, shall be deemed to fall within the said exception.<sup>4</sup>

<sup>1</sup> eighteen

<sup>2</sup> as far as it may be found practicable to obtain it, of the seamen

<sup>3</sup> no natural born subject or citizen of either Power, whose name shall not

<sup>4</sup> unless he shall produce proof of his having been duly naturalized prior to the exchange of ratifications of this treaty.

## ARTICLE 3.

The high contracting parties, however, reserve to themselves the power to authorize and permit,<sup>1</sup> by proclamation,<sup>2</sup> their respective subjects or citizens to serve in the public or private marine of the other country. And it is hereby expressly understood that, so long as such permission shall remain in force, it shall be competent for the Government of the other Power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service: *Provided, always,* That, whenever the Power so granting permission to the said subjects or citizens to serve in the marine of the other shall withdraw the same, notification thereof shall forthwith be made to the other contracting party; and, on receipt of such notification, the Power receiving the same shall forthwith notify it in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects<sup>3</sup> of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects<sup>4</sup> of the other Power as may then be in its service,<sup>5</sup> as if no such permission had been promulgated.

<sup>1</sup> by law,

<sup>2</sup> or otherwise, either generally, or in special cases,

<sup>3</sup> or citizens

<sup>4</sup> or citizens

<sup>5</sup> on their return to port, from the voyages or service in which they may be then engaged, or sooner, if practicable,

## ARTICLE 4.

<sup>1</sup>[In consideration of the stipulations contained in the preceding articles,] it is agreed by the high contracting parties that, during the continuance of the present treaty, neither Power shall impress or forcibly withdraw, nor cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other Power, when met upon the high seas,<sup>2</sup> on any

<sup>1</sup>

<sup>2</sup> or anywhere without the ordinary jurisdiction of

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plea or pretext whatsoever: *Provided, always*, That nothing contained in this article shall be construed to <sup>3</sup>[apply to the vessels of either Power which may be within the ports or within the maritime jurisdiction of the other;] <sup>4</sup>*And, also, provided*, That nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war by the law of nations.]

## ARTICLE 5.

The high contracting parties have agreed to extend the duration of the present treaty to ten years; and they reserve to themselves to concert as to its renewal, at such convenient period, previous to its expiration, as may insure to their respective subjects<sup>1</sup> the uninterrupted benefit which they expect from its provisions; *Provided, always*, That either Power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

## ARTICLE 6.

It is agreed that nothing contained in the preceding articles shall be understood to <sup>1</sup>affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer,<sup>2</sup> except so far as the same shall have been modified, restrained, or suspended, by the said articles. And whenever the present treaty shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof, by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made.

## No. 5.

*Protocol of the fifth conference held between the American and British Plenipotentiaries, at Whitehall, on the 6th of October, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The protocol of the preceding conference was agreed upon and signed.

The British Plenipotentiaries gave in the five annexed articles on the fisheries, the boundary, the Mississippi, the intercourse between Nova Scotia and the United States, and the captured slaves. (A, B, C, D, E.)

It was agreed to meet again on the 9th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON,  
HENRY GOULBURN.

## ARTICLE A.

It is agreed that the inhabitants of the United States shall have liberty to take fish, of every kind, on that part of the western coast of Newfoundland which extends from Cape Ray to the Quirpon islands, and on that part of the southern and eastern coasts of Labrador which extends

either of the two Powers, as acknowledged by the law of nations,

<sup>3</sup> impair or affect the right of either Power to withdraw its natural born subjects or citizens, not falling within the exception mentioned in the preceding articles, from any vessel lying within its ports or within its ordinary maritime jurisdiction, as acknowledged by the law of nations.

<sup>4</sup> (a.)

(a.) See 6th article, <sup>2</sup>.

<sup>1</sup> or citizens

<sup>1</sup> impair or

<sup>2</sup> nor any of the belligerent or neutral rights of either party, as acknowledged by the law of nations.

from Mount Joli to Huntingdon Island; and it is further agreed that the fishermen of the United States shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of the said south and east coasts of Labrador, so long as the same shall remain unsettled; but as soon as the same, or any part of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

And it is further agreed that nothing contained in this article shall be construed to give to the inhabitants of the United States any liberty to take fish within the rivers of His Britannic Majesty's territories, as above described; and it is agreed, on the part of the United States, that the fishermen of the United States resorting to the mouth of such rivers shall not obstruct the navigation thereof, nor wilfully injure nor destroy the fish within the same, either by setting nets across the mouths of such rivers, or by any other means whatever.

His Britannic Majesty further agrees that the vessels of the United States, *bona fide* engaged in such fishery, shall have liberty to enter the



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bays and harbors of any of His Britannic Majesty's dominions in North America, for the purpose of shelter, or of repairing damages therein, and of purchasing wood and obtaining water, and for no other purpose; and all vessels so resorting to the said bays and harbors shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein.

It is further well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States, for any of the purposes aforesaid.

And in order the more effectually to guard against smuggling, it shall not be lawful for the vessels of the United States, engaged in the said fishery, to have on board any goods, wares, or merchandise, whatever, except such as may be necessary for the prosecution of the fishery or the support of the fishermen whilst engaged therein, or in the prosecution of their voyages to and from the said fishing grounds. And any vessel of the United States which shall contravene this regulation may be seized, condemned, and confiscated, together with her cargo.

## ARTICLE B.

It is agreed that a line drawn from the most northwestern point of the Lake of the Woods along the forty-ninth parallel of latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn due north or south, as the case may be, until it shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty, and the northern boundary of the territories of the United States, from the said Lake of the Woods to the Stony mountains; and, in order to prevent any disputes as to the territorial rights of either of the contracting parties on the northwest coast of America, or anywhere to the westward of the Stony mountains, it is agreed that so much of the said country as lies between the forty-fifth and forty-ninth parallels of latitude, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two States, respectively, for the purpose of trade and commerce; it being well understood that, although, by virtue of this arrangement, the two high contracting parties agree not to exercise as against each other any sovereign or territorial authority within the above-mentioned country lying between the forty-fifth and forty-ninth parallels of latitude, this agreement is not to be construed to the prejudice of any claim to which either of the two high contracting parties may have to any territorial authority in any part

of the country lying within the said limits; nor shall it be taken to affect the claim of any other Power or State to any part of the said country; the only object of the two high contracting parties being to prevent disputes and differences between themselves.

## ARTICLE C.

It is further agreed that the subjects of His Britannic Majesty shall have and enjoy the free navigation of the river Mississippi from its source to the ocean, and shall at all times have free access from such place as may be selected for that purpose, in His Britannic Majesty's territories, to the river Mississippi, with their goods, wares, and merchandise, the importation of which into the United States shall not be entirely prohibited, on the payment of the same duties as would be payable on the importation of the same article into the Atlantic ports of the United States.

## ARTICLE D.

British vessels shall have liberty to export, from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in His Britannic Majesty's province of Nova Scotia; to the port of St. John's, in His Britannic Majesty's province of New Brunswick, and to any other port within the said provinces of Nova Scotia or New Brunswick, to which vessels of any other foreign nation shall be admitted, the following articles, being of the growth, produce, or manufacture of the United States, viz: scantling, planks, staves, heading-boards, shingles, hoops, horses, neat cattle, sheep, hogs, poultry, or live stock of any sort, bread, biscuit, flour, peas, beans, potatoes, wheat, rice, oats, barley, or grain of any sort, pitch, tar, turpentine, fruits, seeds, and tobacco.

And vessels of the United States shall, in like manner, have liberty to import from any of the aforesaid ports of the United States into any of the aforesaid ports within the said provinces of Nova Scotia and New Brunswick, the above-mentioned articles, being of the growth, produce, or manufacture of the United States.

British vessels shall also have liberty to import from any of the aforesaid ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, or any other articles, being of the growth, produce, or manufacture of the said provinces, and, also, any produce or manufacture of any of His Britannic Majesty's dominions, the importation of which into the United States shall not be entirely prohibited.

And vessels of the United States shall have liberty to import from the said provinces to the said United States, slates, gypsum, and grindstones, or any other article, being of the growth, produce, or manufacture of any part of His Britannic Majesty's dominions, the importation of which into the United States from any other place shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article shall be

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admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party. The same duties shall also be paid, respectively, in the dominions of both parties, on the importation and on the exportation of the articles which may be imported or exported, by virtue of this article; and the same bounties shall also be allowed on the exportation thereof, whether such importation or exportation shall be in vessels of the United States or in British vessels.

**ARTICLE E.**

Whereas it was agreed by the first article of the Treaty of Ghent, that "all territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property;" and whereas doubts have arisen whether certain slaves, originally captured in certain forts and places belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of His Britannic Majesty, lying within the harbors of the United States at the time of the exchange of the ratifications of the said treaty, are to extend under the above-recited provisions of the said treaty, the high contracting parties do hereby agree to refer the said doubts to some friendly Sovereign or State, to be named for that purpose; and the high contracting parties engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters so referred.

No. 6.

LONDON, *October 7, 1818.*

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to send them the enclosed paper, containing some remarks on the articles handed to them at the conference yesterday. They are to be considered as unofficial, according to the intimation given yesterday, when they were promised, and have been drawn up merely under the hope that, by possessing the British Plenipotentiaries of some of the views of the American Plenipotentiaries before the next meeting on the 9th, the progress of the negotiation may be accelerated.

*Fisheries.*

The American Plenipotentiaries are not authorized by their instructions to assent to any article on that subject which shall not secure to the inhabitants of the United States the liberty of taking fish of every kind on the southern coast of Newfoundland, from Cape Ray to the Ramea

islands, and on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly, indefinitely, along the coast: and, also, the liberty of drying and curing fish in any of the unsettled bays, harbors, and creeks of Labrador and of the southern coast of Newfoundland, as above described; with the proviso respecting such of the said bays, harbors, and creeks as may be settled.

The liberty of taking fish within rivers is not asked. A positive clause to except them is unnecessary, unless it be intended to comprehend under that name waters which might otherwise be considered as bays or creeks. Whatever extent of fishing-ground may be secured to American fishermen, the American Plenipotentiaries are not prepared to accept it on a tenure or on conditions different from those on which the whole has heretofore been held. Their instructions did not anticipate that any new terms of restrictions would be annexed, as none were suggested in the proposals made by Mr. Bagot to the American Government. The clauses forbidding the spreading of nets, and making vessels liable to confiscation in case any articles not wanted for carrying on the fishery should be found on board, are of that description, and would expose the fishermen to endless vexations.

*Mississippi.*

The American Plenipotentiaries are not authorized to agree to any condition that would bring the British in contact with the Mississippi. The right to the navigation of that river could only be derived from the treaty of 1783; and, if viewed as a matter of compromise, that right is much less valuable and important than the portion of the fisheries which the United States would lose by the agreement, even on the terms proposed by them.

*Boundary.*

That portion of the article which relates to the country west of the Stony mountains cannot be agreed to in its present shape. The American Plenipotentiaries cannot consent to throw in a common stock that part only of the country to which the United States deny the claim of Great Britain, and which lies within the same latitudes as their own territories east of the Stony mountains; thus, also, implying the exclusion of their citizens from the trade on the northwest coast of America, (north of 49°) which they have enjoyed without interruption for a number of years, and as early as the British.

Nor are they authorized to agree to expressions implying a renunciation of territorial sovereignty, although perfectly disposed not to insist on an extension of the line of demarcation to that country. They will propose either that the whole of the article relating to that subject, and immediately following the words "to the Stony mountains" should be omitted, inserting, in lieu thereof, a proviso similar to what had on former occasions been agreed to, viz: "But nothing in the present article shall be construed to extend to

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the northwest coast of America, or to territories belonging to or claimed by either party on the continent of America westward of the Stony mountains;" or, that the proposed article should be amended in the manner stated in the enclosed copy.

*Slaves.*

The American Plenipotentiaries had hoped that this subject might have been arranged without a reference to a friendly Power. If this cannot be done, they will agree to the reference; observing, however, that a change in the phraseology will be necessary, so as to bring the whole claim before the foreign sovereign. They are also authorized to agree that the Emperor of Russia should, by the article, be designated as the umpire.

## No. 7.

*Protocol of the sixth conference between the American and British Plenipotentiaries, held at Whitehall, on the 9th of October, 1818.*

Present: Mr. Gallatin, Mr. Rush, and Mr. Robinson.

## ARTICLE.

It is agreed that a line drawn from the most north-western point of the Lake of the Woods along the forty-ninth parallel of latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn<sup>1</sup> due north or south, as the case may be, until<sup>2</sup> [it] shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty, and the northern boundary of the territories of the United States, from the said Lake of the Woods to the Stony mountains;\* and <sup>3</sup>[in order to prevent any disputes as to the territorial rights of either of the contracting parties on the northwest coast of America, or anywhere to the westward of the Stony mountains, it is agreed that so much of the said country as lies between the forty-fifth and forty-ninth parallels of latitude,] together with its harbors, bays, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two <sup>4</sup>[States] respectively, for the purpose of trade and commerce, it being well understood that <sup>5</sup>[although, by virtue of this arrangement, the two high contracting parties agree not to exercise, as against each other, any other sovereign or territorial authority within the above-mentioned country, lying between the forty-fifth and forty-ninth parallels of latitude] this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any territorial authority in any part of the country, <sup>6</sup>[lying within the said limits,] nor shall it be taken to affect the claim of any other Power or State to any part of the said country; the only object of the two

The American Plenipotentiaries declared that they could not agree to the article upon the fisheries brought forward by the British Plenipotentiaries at the preceding conference, nor to that respecting the navigation of the Mississippi, nor to any article that would bring the British in contact with that river.

They also stated that they could not take into consideration the article respecting the intercourse with Nova Scotia and New Brunswick, unconnected with the subject of the British West Indies.

They presented several amendments (A, B) to the articles respecting the boundary line and slaves carried away, proposed at the last conference by the British Plenipotentiaries.

It was agreed to meet again on Tuesday, the 13th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON

A.

<sup>1</sup> from the said point,  
<sup>2</sup> the said line

<sup>3</sup> it is further agreed that so much of the country on the Northwest coast of America, or anywhere to the westward of the Stony mountains, as may be claimed by, or be in the possession of, either of the two parties,

<sup>4</sup> Powers,  
<sup>5</sup> —.

<sup>6</sup> aforesaid,

\* Or all the words that follow to be omitted, and the following to be inserted in lieu thereof, viz:

"But nothing in the present article shall be construed to extend to the Northwest coast of America, or to territories belonging to, or claimed by, either party, on the continent of America, westward of the Stony mountains."

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high contracting parties being to prevent disputes and differences between themselves.

## ARTICLE.

Whereas it was agreed, by the first article of the Treaty of Ghent, that "all territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves, or other private property:" and whereas [doubts have arisen whether certain slaves, originally captured in certain forts and places belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of His Britannic Majesty lying within the harbors of the United States, at the time of the exchange of the ratifications of the said treaty, are to be restored under the above-recited provisions of the above treaty,] the high contracting parties do hereby agree to refer the said [doubts to some friendly Sovereign or State, to be named for that purpose,] and the high contracting parties engage to consider the decision of [such friendly Sovereign or State to be] final and conclusive on all the matters referred.

B.

<sup>1</sup> under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves, who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, who were afterwards removed or carried away by the said forces, whether such slaves were, at the date aforesaid, on shore, or on board any British vessels lying in waters within the territory or jurisdiction of the United States: and whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the Treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all slaves as above described,

<sup>2</sup> differences to His Imperial Majesty the Emperor of all the Russias,

<sup>3</sup> his said Imperial Majesty

## No. 8.

OCTOBER 12, 1818.

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to state that, on full consideration, since the meeting on Friday, they do not feel themselves authorized to consent to the condition annexed to the second article of the projet on impressment, which declares that "none other than the persons whose names shall be included in the said lists shall be deemed to fall within the said exception." Their reasons are stated in the enclosed unofficial memorandum.

Mr. G. and Mr. R. give this notice of their disagreement previous to the meeting fixed for tomorrow, in the hope that, if the alteration which they have heretofore proposed should not, contrary to their expectations, be found acceptable, some other amendment or modification may suggest itself to the British Plenipotentiaries, rather than that the arrangement should fall through.

## MEMORANDUM.

*Lists of seamen naturalized.*

It is required by the British Plenipotentiaries that persons whose names shall not appear on the lists of naturalized seamen, to be mutually furnished by the two Governments, shall not be considered as falling within the exception contemplated by the agreement; that is to say, that such persons, although naturalized, shall, re-

spectively, be excluded from the public or private marine of either party.

But it is impracticable for the Government of the United States to procure complete lists of naturalized seamen, for the following reasons:

Prior to the year 1790, aliens might be naturalized according to the laws of the several States; and it is known that, in some of them, (Pennsylvania for instance,) the naturalization took place before justices of the peace. In these cases, and also when the records of a court may have been destroyed, it would be found difficult, if not impossible, to obtain any other evidence of the naturalization than the certificate given at the time to the naturalized person.

Since the year 1790, although the term of previous residence has varied, the mode has been uniform. Aliens have been naturalized only in conformity with the laws of the United States, and before such courts of record as were designated by those laws. But that designation embraced not only the courts of the United States, properly so called, but also the courts of the several States, including even those of a subordinate jurisdiction, amounting, together, to several hundred. It is necessary to add, that minor children of naturalized persons, if dwelling in the United States, become, also, by virtue of their father's naturalization, *ipso facto*, naturalized themselves.

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If an attempt is made to compile the lists required from the records of the several courts, a first and leading objection is, that the courts of the several States, not being bound to obey in that respect the orders of the General Government, it will be optional with them whether the clerks shall abstract from the records of thirty years those of the naturalization of aliens which are interspersed among them, and transmit those abstracts to the Government of the United States.

But, supposing that every one of those courts should comply with the order, the lists must contain the names of all the British natural born subjects, (and for the year 1790 to 1795, during which time no discrimination of birthplace was recorded, of all aliens,) who have been naturalized for a period of thirty years, without pointing out those who were seamen; no specification of the profession or calling of the parties ever having been required by law to be entered on the records. And those lists, although containing the names of many thousand persons, not seamen, would be defective, by the total omission of the names of the minor children above mentioned, their names not having been directed, by law, to make a part of the record, and the burden of the proof of their citizenship resting with themselves.

There is but one other source of information from which the lists required might be partially obtained.

The collectors of the customs have been required, by a law passed in 1796, to keep books, in which the names of seamen, citizens of the United States, should, on their application, be entered. It is known that this law was never fully complied with, and that the returns are defective. But, even in the cases where the collectors have complied with it, the registers must necessarily be incomplete, since no names were entered but on the application of the parties; besides which, the names of the native citizens were not, by the law, directed to be distinguished from those of naturalized persons.

From this statement of facts, it follows that, although partial lists may be compiled, which will contain the names of many naturalized British seamen, those lists will still be very imperfect. If the condition now urged was complied with, the consequence would be that aliens, naturalized prior to the treaty, who have become citizens of the United States on the faith of a public law, and are thereby entitled to every political and civil right enjoyed by native citizens, (that of becoming President or Vice President of the United States only excepted,) would, by a retrospective, and therefore unconstitutional act, be deprived not of a privilege merely political, but of the right of exercising the only profession they have for the support of themselves and their families. And minors, too, who have never known any other country but America, would be precluded from following the seas when they came to a proper age.

The American Plenipotentiaries cannot assent

to a condition involving such results. They are expressly bound by their instructions, whilst admitting, as a general principle, that neither Government shall employ, in its public or private marine, the natural born subjects or citizens of the other country, to except from its operation all those who shall have been naturalized prior to the treaty. That exception has been mutually assumed as one of the foundations of the agreement; and the effect of the condition alluded to would necessarily be that a portion only of the persons thus previously naturalized in the United States would be embraced by the exception.

The American Plenipotentiaries beg leave to add that the condition appears to them unnecessary. According to that which they propose, every British natural-born subject, not included in the lists, and claiming to be employed as a seaman on board an American vessel, must adduce proofs of his having been naturalized prior to the exchange of ratifications. He must produce either the original certificate of his naturalization, or an authentic copy, attested as such by the proper court. If claiming as a minor, by virtue of his father's naturalization, he must, in addition, produce legal proofs of the fact. In the cases for which the condition is intended to provide, proofs may always be given similar to those which, in every case, would be admitted as conclusive by the laws of Great Britain, as well as by those of the United States.

Finally, the right reserved to either party of annulling the agreement at will, affords security in this case as well as in all others. This reservation, which had not been contemplated by the Government of the United States, has been acceded to by their Plenipotentiaries, in order to remove every objection to the arrangement, and to avoid the necessity of entering into details respecting the measures necessary to carry it into effect. Great Britain being thereby effectually secured against every risk, and holding in her own hands a complete remedy against deviations from the terms of the compact in all cases, no necessity appears to exist for an additional security on this particular point.

## No. 9.

*Protocol of the seventh conference between the American and British Plenipotentiaries, held at Whitehall, on the 13th of October, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The British Plenipotentiaries acquiesced in the amendment proposed at the preceding conference by the American Plenipotentiaries, in the article respecting captured slaves, except as far as related to the insertion in the article of the name of any particular Power.

They brought forward new articles (A, B, C, D, E) respecting the fisheries, the boundary, impressment, and maritime points, and accompanied the articles D with the annexed memorandum E. They agreed to the omission of the article respecting the Mississippi.

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It was agreed to meet again on Monday, the 19th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FRED. J. ROBINSON,  
HENRY GOULBURN.

## ARTICLE A.

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America: It is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Ramea islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence, northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

## ARTICLE B.

It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then, that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and

with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty and the northern boundary of the territories of the United States, from the Lake of the Woods to the Stony mountains. But nothing in the preceding part of this article shall be construed to extend to the northwestern coast of America, or to territories belonging to, or claimed by, either party, on the continent of America westward of the Stony mountains; and any such country as may be claimed by either party westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open to the vessels, subjects, or citizens of the two Powers, respectively, for the purposes of trade and commerce. It being well understood that nothing contained in this article shall be taken to affect the claims of any other Power or State to any part of the said country; the only object of the two high contracting parties being to prevent disputes and differences between themselves.

## ARTICLE C.

His Majesty the King of the United Kingdom of Great Britain, &c., and the United States of America, animated with an equal desire to prevent, by conventional regulations, the recurrence of inconveniences which have heretofore arisen from the employment of the natural born subjects of His Britannic Majesty in the public or private marine of the United States, and from the employment of the natural born citizens of the United States in the public or private marine of His Britannic Majesty, have nominated Plenipotentiaries to negotiate a convention for this desirable object.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., has nominated the right honorable Frederick John Robinson, &c., and Henry Goulburn, Esq., &c., and the President of the United States has nominated Albert Gallatin, Esq., and Richard Rush, Esq., &c., who, having exchanged their full powers, found in good and due form, have agreed upon and signed the following articles:

1. The high contracting parties engage and bind themselves to adopt, respectively, without delay, the most effectual measures for excluding, respectively, from serving either in their public or private marine, the natural born subjects and the natural born citizens of the other party; that is to say: His Majesty the King of the United Kingdom of Great Britain and Ireland, for excluding the natural born citizens of the United States from serving either in the public or private marine of his dominions; and the United States, for excluding the natural born subjects of His Britannic Majesty from serving either in the public or private marine of the United States; and such measures, when adopted, shall be immediately communicated by each party to the

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other: *Provided always*, That nothing contained in this article shall be understood to apply to any seamen, being natural born subjects of His Britannic Majesty, or natural born citizens of the United States, who have been naturalized by the respective laws of either Power previous to the signature of the present convention.

2. The high contracting parties engage to deliver, each to the other, within eighteen months from the ratification of the present convention, a list, as far as it may be found practicable to obtain it, containing the names and description of the seamen falling within the said exception, specifying the places of their birth, and the date of their becoming naturalized. And it is further agreed that no person, whose name shall not be included in the said lists, shall be deemed to fall within the said exceptions.

3. It is however agreed that, if one of the high contracting parties shall, at any time during the continuance of this convention, think fit to notify to the other that it does not insist upon the exclusion of its natural born subjects, or natural born citizens, from the public or private marine of the other party, it shall be competent to the said other party, notwithstanding the engagement set forth in the first article of this convention, no longer to exclude the said subjects or citizens: *Provided always*, That, whenever the Power which has made the said notification shall recall the same, its recall shall be immediately communicated to the other contracting party; and, on receipt of such communication, the Power receiving the same shall forthwith make it known, in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects or citizens of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects or citizens of the other Power as may then be in its service, as if no such stipulations as are contained in the preceding part of this article had been agreed to.

4. It is agreed by the high contracting parties, that, during the continuance of the present convention, neither Power shall impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other party, when met upon the high seas, or upon the narrow seas, on any plea or pretext whatsoever: *Provided always*, That nothing contained in this article shall be construed to impair or affect the rights of either Power to impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, its natural born subjects or natural born citizens, not falling within the exceptions mentioned in the preceding articles, from any vessel being within its ports, or within its ordinary maritime jurisdiction, as acknowledged by the law of nations: *And also provided*, That nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war by the law of nations.

5. The high contracting parties have agreed to extend the duration of the present treaty to

ten years, and they reserve to themselves to concert as to its renewal, at such convenient period, previous to its expiration, as may insure to their respective subjects or citizens, as aforesaid, the uninterrupted benefit which they expect from its provisions: *Provided always*, That either Power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

6. It is agreed that nothing contained in the preceding articles shall be understood to impair or affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended by the said articles. And whenever the present convention shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such convention had ever been made.

## ARTICLE D.

(a.) Whenever one of the high contracting parties shall be at war, any vessel of the other party, sailing for a port or place belonging to an enemy of the party at war, without knowing that the same is blockaded, may be turned away from such port or place; but she shall not be detained on account of such blockade, unless, after such notice, she shall again attempt to enter. And, in order to determine what characterizes a blockade, it is agreed that that denomination shall apply only to a port where there is, by the disposition of the Power which blockades it with a naval force, stationary or sufficiently near, an evident danger in entering.

(b.) In order to regulate what is in future to be deemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea, such as cannon, mortars, muskets, pistols, and other fire-arms, petards, bombs, grenades, carcasses, saucisses, rockets, carriages for cannon, firelocks, musket-rests, bandoliers, gunpowder, saltpetre, match, balls and bullets, helmets or head-pieces, cuirasses, swords, pikes, halberts, lances, javelins, saddles, bridles, and other horse furniture, holsters, pouches; belts, and generally all other implements of war; as, also, timber for shipbuilding, tar, or rosin, copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron and planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

(c.) In all cases of unfounded detention, or other contravention of the regulations stipulated

*Relations with Great Britain.*

by the present treaty, the owners of the vessel and cargo detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial. All proper measures shall be taken to prevent delays in deciding the cases of ships or cargoes so brought in for adjudication, and in payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships or cargoes. And whenever sentence shall be pronounced against any vessel thus captured or detained, or against her cargo, or any part thereof, a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered without delay, to the commanders of the said vessels, or to the owner thereof, or to the agent of either, on payment of all legal fees and demands for the same.

The commanders of ships-of-war and privateers of the belligerent party shall, in the searching of the merchant ships of the other party, conduct themselves according to the acknowledged principles and rules of the law of nations; and as favorably, moreover, as towards the most friendly Power that may remain neuter. The said commanders, their officers, and crews, shall forbear doing any damage to the subjects or citizens of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall also make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

(d.) The ships-of-war and privateers of the two nations, as well as their prizes, shall be treated in their respective ports as those of the most favored nation.

It shall not be lawful for any Power or State at war with either of the high contracting parties, or the subjects or citizens of such Power or State, to fit out or arm ships-of-war, or privateers, in the ports of the other of the high contracting parties, nor to sell what they may take as prize from the ships or vessels of the high contracting party with whom such Power or State may be at war, in the ports of the other, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Power or State to which they belong.

(e.) In the event of a shipwreck happening to any vessel or vessels belonging to either of the high contracting parties, or their subjects and citizens, on the coasts of the other, every assistance shall be given for the protection of the unfortunate persons, and for the preservation of the ship, cargo, and all effects which may be saved, either from on board the ship, or in any other manner whatever; and the same shall not be concealed, nor detained, nor damaged, under any pretext whatever. On the contrary, the same shall be preserved and restored to them, upon a suitable recompense being given to those who

shall have assisted in saving their persons, vessels, or effects.

(f.) If at any time a rupture should take place (which God forbid) between His Britannic Majesty and the United States, neither the debts due from individuals of one of the two nations to individuals of the other, nor shares or moneys which they may have in the public funds, or in the public or private banks, shall be sequestered or confiscated; and the merchants and others of each of the two nations residing in the dominions of the other shall in no case be detained as prisoners of war, but they shall be permitted to remove, with their families, effects, and property; each Government having, nevertheless, the right, during their remaining in its dominions, to make such regulations, and to take such precautions as it may deem necessary with respect to such persons.

**MEMORANDUM E.**

Upon the subject of these articles numbered from *a* to *k*, which were brought forward by the American Plenipotentiaries, and annexed to the protocol of the third conference, the British Plenipotentiaries stated that, although they were not instructed to bring any of these topics before the conferences on the part of Great Britain, and although they considered it by no means necessary that the two countries should now come to any conventional arrangement relating to them, they were, nevertheless, ready to agree to the annexed articles (*a*, *b*, *c*, *d*, *e*, *f*), which embraced all the points upon which, in their judgment, it was expedient that the two countries should enter into positive stipulations.

*Slaves.*

ARTICLE. Whereas it was agreed by the first article of the Treaty of Ghent, that "all territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property, originally captured in the said forts or places, which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property:" And whereas, under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at the date aforesaid, on shore or on board any British vessels lying in waters within the territory or jurisdiction of the United States. And whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the Treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all or any slaves, as above described;



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the high contracting parties do hereby agree to refer the said difference to some friendly Sovereign or State, to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters referred.

## No. 10.

*Amendment to boundary line, proposed by American Plenipotentiaries at the eighth conference.*

In lieu of the latter part of the article insert :

"And it is agreed that any such country as may be claimed by either party on the Northwest coast of America, or on the continent of America westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of this treaty, to the vessels, citizens, and subjects of the two Powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the last-mentioned country; nor shall it be taken to affect the claims of any other Power or State to any part of the said country—the only object of the two high contracting parties, in that respect, being to prevent disputes and differences among themselves."

## No. 11.

*Protocol of the eighth conference between the American and British Plenipotentiaries, held at Whitehall, on the 19th of October, 1818.*

Present : Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The protocols of the two preceding conferences were agreed to and signed.

The several articles upon the fisheries; the boundary; the territory westward of the Stony mountains; the captured slaves; and the renewal of the existing commercial convention, were agreed to.

The American Plenipotentiaries expressed their regret that the rejection of several of the amendments which they had offered to the projet on impressment, and which they deemed essential, compelled them to decline acceding to that projet.

The great alterations made by the British Plenipotentiaries to the articles proposed by the American Plenipotentiaries on maritime rights, also induced the latter to think that, although a season of peace appeared the most favorable time for arranging such subjects, it would be inexpedient to discuss them any further, more especially as it had never been the intention of the American Plenipotentiaries to adopt or propose any articles upon maritime subjects, without an adjustment of that on impressment.

The British Plenipotentiaries brought forward an article, as annexed, (F,) upon the subject of the direct intercourse between the West Indies and the United States of America; but they stated that they could not consent to sign any

article upon that subject, unless the American Plenipotentiaries were prepared at the same time to accede to articles which should put the intercourse between Bermuda and the United States, as well as between Nova Scotia and New Brunswick and the United States, upon the footing contemplated in the article originally offered by the British Government with respect to Bermuda, and in that respecting Nova Scotia and New Brunswick, brought forward at a former conference by the British Plenipotentiaries.

The American Plenipotentiaries declared that their instructions did not authorize them to sign the West India article as proposed by the British Plenipotentiaries, but agreed to take the whole question *ad referendum* to their Governments.

It was agreed to meet on Friday, the 20th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON,  
HENRY GOULBURN.

## F.

It is agreed that the vessels of the United States shall have liberty to import from\* [any of the ports of the United States to which any foreign vessels are permitted to come, to] any of the ports of His Britannic Majesty's dominions in the West Indies, which shall be open to the vessels of any other foreign Power or State, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, except salted provisions of any description, whether meat, fish, or butter, such articles being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to import, in the same manner, any other articles of the growth, produce, or manufacture of the United States, the importation of which into the above-mentioned ports shall not be entirely prohibited from every other foreign country or place.

The vessels of the United States shall likewise have liberty to export from any of the aforesaid ports of His Britannic Majesty's dominions in the West Indies, to any of the aforesaid ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture of any of His Britannic Majesty's above-mentioned dominions in the West Indies; and the said vessels shall also have liberty to export, in the same manner, any other articles of the said growth, produce, or manufacture, the exportation of which in foreign vessels from the said ports to any other foreign country or place shall not be entirely prohibited.

British vessels shall, in the same manner, have liberty to import from any of the aforesaid ports of His Britannic Majesty's dominions to any of the ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture

\* The words within the brackets were not inserted, as is supposed by an accidental omission in the copy handed in by the British Plenipotentiaries.

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of His Britannic Majesty's above-mentioned dominions in the West Indies; and British vessels shall also have liberty to import, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said dominions of His Britannic Majesty to the United States shall be allowed as aforesaid in vessels of the United States.

British vessels shall likewise have liberty to export from any of the aforesaid ports of the United States to any of the aforesaid ports of His Britannic Majesty's dominions in the West Indies, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, except salted provisions of any description, whether meat, fish, or butter, such articles being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to export, in the same manner, every other article, being the growth, produce, or manufacture of the United States, the importation of which into the British ports from the said United States shall be allowed in vessels of the United States.

The vessels of either of the two parties, employed in the trade provided for by this article, shall be admitted in the ports of the other, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the above-mentioned ports of the other party, for the purpose of disposing of their inward and of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation into the United States of any of the articles which may be imported therein, by virtue of this article, when imported in British vessels, than when imported in vessels of the United States; nor when imported directly from the above-mentioned ports of His Britannic Majesty's dominions, than when imported in a circuitous manner. And no other or higher duties shall be paid on the importation into any of the above-mentioned ports of His Britannic Majesty's dominions of any of the articles which may be imported therein by virtue of this article, when imported in vessels of the United States, than when imported in British vessels; nor when imported directly from the United States, than when imported in a circuitous manner. It is agreed, moreover, that no other or higher duties shall be charged upon any of the above-mentioned articles, being of the growth, produce, or manufacture of the two countries, respectively, when imported by virtue of this article, on the one hand, into the said ports of His Britannic Majesty's dominions, or into the ports of the United States, on the other, than may be charged on similar articles when imported from any other foreign country; but His Britannic Majesty reserves to himself the right to impose higher duties upon all articles so allowed to be imported into the said British ports from the United States, than are, or may be, chargeable upon all similar articles, when import-

ed from any of His Majesty's dominions: *Provided*, That in such case such similar articles shall be of the growth, produce, or manufacture of His Majesty's possessions. The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported either from the said ports of His Britannic Majesty's dominions in the West Indies to the United States, as from the United States to the above-mentioned ports, whether such exportation shall be in vessels of the United States or in British vessels.

## No. 12.

*Protocol of the ninth conference between the American and British Plenipotentiaries, held at Whitehall, on the 20th of October, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The protocol of the preceding conference was agreed to and signed. The Plenipotentiaries then proceeded to sign the convention.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON,  
HENRY GOULBURN.

*Mr. Rush to the Secretary of State.*

LONDON, October 27, 1818.

SIR: I had the honor to write you a few lines on the 19th instant, and immediately forwarded them in triplicate to the Consul at Liverpool, to be sent off by the earliest ships, to say that we had on that day agreed to sign a treaty with the British Plenipotentiaries on the points which I enumerated. It was signed on the 20th. The joint despatch from Mr. Gallatin and myself, bearing date on the same day, giving an account of the whole progress of the negotiation, was, together with the convention itself and all the accompanying documents, forwarded from hence to Liverpool on the 24th.

After consulting with Mr. Gallatin, I did not feel at liberty to employ a special messenger to be the bearer of the convention, trusting to the ordinary opportunities by our merchant vessels, which are so constant, and in general so safe. I accompanied the packet with a special letter to Mr. Maury, apprising him of the importance of committing it to hands that were trustworthy, and with directions that it should be delivered to the postmaster at New York, or wherever else the ship may arrive, without any delay. It will thus, I hope, reach Washington with all expedition and safety. On the side of the British Plenipotentiaries a special secretary was employed for the business of this negotiation. On ours Mr. Smith has acted; a circumstance which is alluded to only that I may add how unremitting has been his attention, and how useful his services. Mr. Gallatin set out on his return to Paris on the morning of the 22d. Duplicates of the convention, the despatch, and all the other papers, will be transmitted at the earliest moment that they can be copied.

*Relations with Great Britain.*

After what is said in your despatch of the 28th of July, to the joint mission, respecting Judge Wallace's decree, on the 29th of August, 1817, at Halifax, in the cases of the captured fishing vessels, it is proper I should state that I have been informed by Mr. Slade, in a note of the 14th of this month, that no appeal has been entered by the captors from the sentences of restitution; and that, the time having now gone by allowed by the practice of the admiralty for entering appeals, none can be entered. He adds, that as the owners of the vessels were obliged to give bail at Halifax to answer the appeals, it is possible that they may also have been made to place counter-security in the hands of the bail; in which case, the bail may refuse to part with such security, without a *desertion* from the appellate court here—that is, a decree that the appeals had not been prosecuted, and that the original sentence should be carried into effect. But as such a decree would be attended with expense, he does not advise it for the present. In the event of its becoming necessary to the owners, they should be informed that they cannot have the benefit of it until office copies of the decrees of restitution at Halifax are first forwarded. Mr. Slade is the proctor whom I employed contingently to give attention to these cases, as mentioned in my despatch of the 21st of March.

From the instructions of the 28th of July, I infer that Government contemplated becoming instrumental to the solemn argument of the great question of right under the treaty of 1783, only in the event of no article respecting the fisheries being agreed upon. As one has been signed, I design to take no further steps on this head, should the convention be ratified, without further instructions from the Department. I mention this, perceiving from the newspapers that there have been fresh captures of our fishing vessels during the last season, followed by sentences of condemnation, from which appeals on the part of the claimants may, I take it for granted, be anticipated. With very great respect, &c.

RICHARD RUSH.

*Mr. Adams to Messrs. Gallatin and Rush.*

DEPARTMENT OF STATE,  
Washington, November 2, 1818.

GENTLEMEN: From the despatches which, since I last had the honor of writing to you, have been received at this Department, from Mr. Rush, dated the 24th and 26th of June and the 15th of August, it appears that there are two subjects likely to be brought under consideration in your conferences with the British Plenipotentiaries, which were not contemplated by the President at the time when your former instructions were prepared—impressment and the slave trade.

*Impressment.*

In the notes, Nos. 1 and 2, delivered by Mr. Rush to Lord Castlereagh, the first on the 18th of April, and the second on the 20th of June, both the offers had been made to the British Gov-

ernment, warranted by his former instructions of legislative measures for excluding British seamen from the naval and merchant service of the United States, on condition of a formal stipulation on the part of Great Britain that the impressment of men from the vessels of the United States shall henceforth cease.

Both these proposals, at the time when they were offered, or shortly afterwards, had been rejected, with an intimation from Lord Castlereagh to Mr. Rush, in the latter instance, that the objections of the British Cabinet against them would be presented in writing.

Afterwards, however, on the 14th of August, he expressed his willingness that the subject should be taken up in the proposed negotiation of a commercial treaty, and avowed, as an opinion of his own, upon which he had, indeed, not consulted with his colleagues in the Cabinet, that these proposals might, with certain modifications, which he thought very important to Great Britain, and of little moment to the essential object of the United States, be rendered acceptable. These were: 1. That the treaty containing the stipulation should be limited to a duration of ten or twelve years, with liberty to each party to be absolved from its stipulations on a notice of three or six months. 2. That the British boarding officer, entering American ships at sea for a purpose justified under the laws of nations, should have the liberty of calling for a list of the crew, and, if he saw a man whom he knew or suspected of being an Englishman, he should, without taking the man, have the privilege of making a record or *procès verbal* of the fact, to be presented to the consideration of the American Government.

These suggestions have received the fullest and most deliberate consideration of the President, with the earnest disposition on his part to view them in the most favorable light. He welcomes them, especially, as the first indications of a consciousness in the British Cabinet that the permanency of peace between the two countries is utterly incompatible with the resumption of the practice of impressing men from our vessels on the high seas—a conviction so profoundly impressed upon his own mind, that he scarcely thinks any discouragement could justify a remission of our efforts to remove this inevitable cause of future collisions, so long as the practice hitherto persevered in shall continue to exist.

It is readily agreed that the treaty to contain the stipulation shall be limited in duration to eight, ten, or twelve years; but that either party should have the liberty of putting an end to the whole treaty by a notice of three or six months, would seem to place the whole commercial relations between the two countries upon too precarious a foundation. Some of the stipulations proposed in your negotiation are, in their nature, intended to be permanent, even in the event of a war; others would require legislative regulations to protect interests which would be deeply affected by the sudden termination of the treaty. The President, nevertheless, authorizes you to

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agree that, besides the general limitation of the temporary articles of the treaty to eight, ten, or twelve years, either party shall be at liberty to dissolve them after a notice of two years given to and received by the other; or, if preferable to the British Government, the article relative to impressment may be made a separate article, distinct from the rest of the treaty, and limited to a term of four years. This course would, indeed, be most convenient, as it would give us the opportunity of taking the sense of the Senate upon it, without implicating it with the other parts of the treaty. Our intention and expectation is, that the practice of taking men from our ships being once formally renounced by Great Britain, she will, in point of fact, never recur to it again.

If the intention of Lord Castlereagh was that this right of dissolving the compact by a notice of three or six months should apply only to the article against impressment, its acceptance is objectionable on other grounds. The engagement to exclude all British seamen from our sea service will operate, immediately from its commencement, with some inconvenience to our merchants. Since the peace and the dispersion of the vast number of seamen disbanded from the British navy, there are, no doubt, considerable numbers of them who have found employment on board of our vessels, and their exclusion from them will not be accomplished without some inconvenience. The effect of the stipulation of Great Britain to take no men from our vessels is remote, and contingent upon the event of her being engaged in a maritime war with other Powers: the onerous part of the engagement is, therefore, to us immediate and certain; the benefit to be derived from it distant and eventual. If to this apparent inequality should be added a power reserved by Great Britain to cancel the bargain by a simple notice of three or six months, we could scarcely consider it as a contract. It would be a positive concession and sacrifice, on our part, for the mere chance of a future equivalent for it, altogether dependent upon the will of the other party. The alternatives now proposed, it is hoped, will answer the purposes intended by the expedient suggested by Lord Castlereagh, without being equally liable to the difficulties which arrest our assent to it otherwise than as thus modified. It would also be desirable that the commencement of the engagement to exclude British seamen should be postponed for some time, (say to the 1st of October, 1820,) that a sufficient notice may be given to the merchants and mariners whose interests will be affected by it.

The second proposal (that British officers entering our merchant vessels for purposes warranted by the law of nations shall be authorized to call for the list of the crew, and, if they should find or suspect an Englishman to be on board, make a record of the fact for the purpose of remonstrance to the Government of the United States) is, in the view of the President, still more objectionable. In the first place, the distrust which it implies that the laws for excluding Bri-

tish seamen will, though stipulated, not be faithfully executed, is not warranted by any experience, nor can this Government give countenance to it by assenting to any stipulation which would be considered as resulting from it. If the United States bind themselves to this exclusion, they will sincerely and faithfully carry it into execution. It was not expressly asked by Lord Castlereagh in his proposal, as reported by Mr. Rush, that the officer, in calling for the shipping paper, should also have the power of mustering the crew, to examine them by comparison with the list; but as the mere view of the list would be useless unless coupled with that power, we consider it as having been intended to be included in the proposal; and this very inspection of the crews of our vessels by a foreign officer has been found among the most insulting and grievous aggravations of the practice of impressment. Besides this, the tendency of such an examination in every single instance would be, to produce altercation between the British officer and the commander of the American vessel. If the officer should be authorized to make a record of his suspicions, the master, on his side, and the suspected seamen, must of course have the privilege of making their counter-record; and as there would be no tribunal to judge between them, the probable ultimate result could be no other than that of exciting irritation between the two nations, and fractious discussions between the Governments.

If the engagement to exclude British seamen from our service should fail of being executed to an extent worthy of the slightest attention of the British Government, they could not avoid having notice of it, by proofs more effectual and more abundant than could be furnished by this sort of scrutiny. A failure of execution on our part to any such extent would give them not only the right of remonstrating to ours, but even of cancelling their obligation within a lapse of time, which must guard them against the danger of any material national injury. We have the fullest confidence that, if the engagement on both sides be once contracted, Great Britain will, thenceforward, have no lawful or even plausible motive either for wishing it cancelled, or for inspecting the crews of our vessels in search of men.

*Slave Trade.*

The President desires that you would make known to the British Government his sensibility to the friendly spirit of confidence with which the treaties lately contracted by Great Britain with Spain, Portugal, and the Netherlands, and the legislative measures of Parliament founded upon them, have been communicated to this Government, and the invitation to the United States to join in the same, or similar arrangements, has been given. He wishes you, also, to give the strongest assurances that the solicitude of the United States for the accomplishment of the common object—the total and final abolition of that odious traffic—continues with all the earnestness which has so long and so steadily distinguished

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the course of their policy in relation to it. As an evidence of this earnestness, he requests you to communicate to them a copy of the act of Congress of the last session, in addition to the act of 1807, to prohibit the importation of slaves into the United States, (acts of the last session, chapter 86, page 81,) and to declare the readiness of this Government, within their Constitutional powers, to adopt any further measures which experience may prove to be necessary for the purpose of obtaining so desirable an end.

But you will observe that, in examining the provisions of the treaties communicated by Lord Castlereagh, all their essential articles appear to be of a character not adaptable to the institutions or to the circumstances of the United States.

The power agreed to be reciprocally given to officers of the ships of war of either party to enter, search, capture, and carry into port for adjudication, the merchant vessels of the other, however qualified and restricted, is most essentially connected with the institution, by each treaty, of two mixed Courts, one of which to reside in the external or colonial possessions of each of the two parties, respectively. This part of the system is indispensable to give it that character of reciprocity, without which the right granted to the armed ships of one nation to search the merchant vessels of another, would be rather a mark of vassalage than of independence. But to this part of the system the United States, having no colonies either on the coast of Africa or in the West Indies, cannot give effect.

You will add that, by the Constitution of the United States, it is provided that the judicial power of the United States shall be vested in a supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. It provides that the judges of these courts shall hold their offices during good behavior, and that they shall be removable by impeachment and conviction of crimes or misdemeanors. There may be some doubt whether the power of the Government of the United States is competent to institute a court for carrying into execution their penal statutes beyond the Territories of the United States—a court consisting partly of foreign judges, not amenable to impeachment for corruption, and deciding upon the statutes of the United States without appeal.

That the disposal of the negroes found on board the slave-trading vessels which might be condemned by the sentence of these mixed courts, cannot be carried into effect by the United States; for, if the slaves of a vessel condemned by the mixed court should be delivered over to the Government of the United States as free men, they could not, but by their own consent, be employed as servants or free laborers. The condition of the blacks being, in this Union, regulated by the municipal laws of the separate States, the Government of the United States can neither guarantee their liberty in the States where they could only be received as slaves, nor control them in the States where they would be recognised as free.

That the admission of a right in the officers of foreign ships of war to enter and search the vessels of the United States in time of peace, under any circumstances whatever, would meet with universal repugnance in the public opinion of this country. That there would be no prospect of a ratification, by advice and consent of the Senate, to any stipulation of that nature. That the search by foreign officers, even in time of war, is so obnoxious to the feelings and recollections of this country, that nothing could reconcile them to the extension of it, however qualified or restricted to a time of peace. And that it would be viewed in a still more aggravated light, if, as in the treaty with the Netherlands, connected with a formal admission that even vessels under convoy of ships of war of their own nation should be liable to search by the ships of war of another.

You will, therefore, express the regret of the President that the stipulations in the treaties communicated by Lord Castlereagh are of a character to which the peculiar situation and institutions of the United States do not permit them to accede. The Constitutional objection may be the more readily understood by the British Cabinet, if they are reminded that it was an obstacle proceeding from the same principle which prevented Great Britain from becoming, formally, a party to the Holy Alliance; neither can they be at a loss to perceive the embarrassment under which we should be placed, by receiving cargoes of African negroes, and be bound at once to guarantee their liberty, and to employ them as servants. Whether they will be as ready to enter into our feelings, with regard to the search, by foreign navy lieutenants, of vessels under convoy of our own naval commanders, is, perhaps, of no material importance. The other reasons are presumed to be amply sufficient to convince them that the motives for declining this overture are compatible with an earnest wish that the measures concerted by these treaties may prove successful in extirpating that root of numberless evils—the traffic in human blood; and with the determination to co-operate, to the utmost extent of our powers, in this great vindication of the sacred rights of humanity.

JOHN QUINCY ADAMS.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, Dec. 8, 1818.

The despatch of the 2d November, addressed to Mr. Gallatin and myself, arrived here on the 6th instant.

Of the subjects to which it relates, viz., impressment and the slave trade, the department will have been long since informed by our joint communications that only the former had a place in the late negotiation. As we came to no agreement on it, I am happy to think that none of the expectations of the President will have been departed from. It will also have been seen that, had this despatch reached us before the negotia-

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tion closed, although it would have affected our conduct on one of the points, the result would have been the same. I design to transmit a copy of it to Paris for Mr. Gallatin's information.

*Extract of a letter from Mr. Adams to Mr. Rush, dated*

DEPARTMENT OF STATE,  
Washington, Dec. 1, 1818.

Your despatches to No. 36, inclusive, have been received at this office. Of the various subjects to which they relate, and which appear to require particular notice, I propose now to take a review, according to the successive order of their dates.

The first is No. 22, dated 19th June, and enclosing your correspondence with Lord Castlereagh relative to a passage in a printed report of a committee of the House of Representatives of the United States to that body, mentioning the rejection by the President of the four articles which had been proposed by the British Government as additions to the commercial convention of 3d July, 1815, and approving that rejection, upon an idea entertained by the committee that the fourth of those articles would have interfered with the settled policy of the United States in relation to the Indians within their limits. This remark of the committee appears to have affected the sensibility of the British Cabinet upon two grounds: first, as they considered that the rejection of those articles had not been previously communicated to them; and, secondly, because they thought the article in question did not bear the construction, and they explicitly disclaimed the intention that it should bear such a construction as the committee of Congress had thought applicable to it.

With regard to the first point, the explanation which ensued between you and Lord Castlereagh appears to have placed it in the proper point of view. The articles had been presented to your predecessor as embracing the utmost extent which the British Government would consent to give to our commercial intercourse with their colonial possessions in this hemisphere. Before your departure from this country, the President had made up his mind not to accept them, and your instructions had authorized you to make this determination known to the British Government in the manner which it was supposed would be most friendly and conciliatory. The articles had been delivered without any accompanying document, note, or commentary; and as it was not believed here that they could, under any modification, be made the basis of an arrangement between the two Governments, upon the subject to which they relate, and as it was given us explicitly to understand that Great Britain could concede nothing more of relaxations to her colonial and navigation system, it was thought useless to enter into discussion, of which there was no prospect that it would terminate in agreement, and which might tend to irritation, and that the most inoffensive manner of communicating the

non-acceptance of the articles would be verbally, in a personal interview between yourself and Lord Castlereagh. On reference to your report of your first conference with him, on the 3d of January, it appears that the part of your instructions to which I allude was then executed; and that, without using the unaccommodating term of *rejection*, you communicated to him the disposition of the President, with regard to the four articles, in a manner altogether congenial to the spirit of that formula of the British Constitution by which the dissent of the Crown is signified to an act which has passed both Houses of Parliament—*le Roy s'aviserà*. There was, indeed, so little of ambiguity in the intimations given by you at that time, that when, before the receipt of your despatch No. 22, Mr. Bagot came to me with a copy of Lord Castlereagh's note to you of 29th May, which had been sent to him, I recurred immediately to the file of your despatches, and read to him that part of your report of what passed between you and Lord Castlereagh at your conference on the 3d of January; observing to him that I had little imagined, after that disclosure of the President's sentiments concerning the four articles, that the British Government would have expected any further reference to them on the part of the United States.

A copy of the four articles was furnished to the committee of the House of Representatives charged with the duty of reporting to the House upon the state of the commercial relations between the United States and the British West Indies. That committee drew their own conclusions upon the probable operation of the articles, and particularly of the fourth. They were communicated to them without comment on the part of the Executive. They knew the articles had not been accepted, but the reasons of the non-acceptance had not been stated to them. It is true that the article was the same which, at the negotiation of the commercial convention of July, 1815, had been offered by the British Plenipotentiaries; that the objection to it, now suggested by the committee, had, at that time, been avowed by those of the United States; that the British Plenipotentiaries did then disclaim the intention of giving it a construction which would import the admission of British traders to any intercourse with Indians within the territories of the United States, and did offer to introduce into the article any words which might be necessary to guard it against that construction; and that the article was then finally declined upon another ground. But the same reason for declining it still subsists, and is now as operative as it was in 1815; and, if it did not occur to the committee, it was because the other, being more obvious upon the face of the article as presented to them, doubtless struck them more forcibly, as of itself decisive, and needing no further notice of objections less important, though not less insuperable.

In the negotiation with which you are now occupied, for the renewal and extension of that compact, we have not altogether abandoned the hope that the British Cabinet will ultimately

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concede something further of principle; and, if this article should be discussed in your conferences, that they will consent to remove the other feature of exclusion from it, which still renders it inadmissible. Your powers will enable you to agree to it with such modifications as may divert it both of the exceptionable construction disclaimed, and of the restrictive exclusion yet adhered to by Great Britain.

*The Secretary of State to Mr. Rush.*

DEPARTMENT OF STATE,  
Washington, May 7, 1819.

SIR: From the documents transmitted by Mr. Gallatin and you, relating to the negotiation of the commercial convention of 20th October last, it appears—

That, at the third conference, a draught of two articles was proposed by the American Plenipotentiaries for regulating the commercial intercourse between the United States, and, 1, the British islands in the West Indies, and, 2, the provinces of Nova Scotia and New Brunswick, in North America.

That, at the fifth conference, the British Plenipotentiaries offered the counter-projet of an article for the intercourse between the United States and Nova Scotia and New Brunswick; and, at the eighth conference, an article for that between the United States and the British West Indies.

That, in presenting this last article, they stated that they could not consent to sign an article upon that subject unless the American Plenipotentiaries would accede, in substance, to the article proposed at the fifth conference concerning Nova Scotia and New Brunswick, and to an article proposed by the British Government on the 19th of March, 1817, concerning the trade between the United States and the island of Bermuda.

And that the American Plenipotentiaries, not feeling themselves authorized by their instructions to sign the West India article as proposed by the British Plenipotentiaries, agreed to take the whole question *ad referendum* to their Government.

In comparing the West India article, proposed by the American Plenipotentiaries at the third conference, with that offered by the British Plenipotentiaries at the eighth, it appears—

1. That, in the American projet, the ports in the West Indies proposed to be opened to American shipping are specifically named; while, in the British projet, they are only designated as the ports which shall be open to the vessels of any other foreign Power or State. It is observed, in your joint letter of 20th October, that these ports are the same as those proposed by the American projet, with the exception of St. Christopher's, St. Lucia, Demarara, Essequibo, and Berbice; but the difference between the two draughts is otherwise material; for, if the ports were specifically named, the privilege of admission to them would be positive, and not revocable at the

pleasure of Great Britain; but if passing under the general description, it might at any time be revoked merely by prohibiting the admission to any other foreign vessels.

2. That, in the American projet, the articles of naval stores, provisions, and lumber, in general terms, are among those stipulated for admission; while, in the British counter-projet, the naval stores are restricted to pitch, tar, and turpentine; the lumber to staves, headings, and shingles; and from the article of provisions are excepted salted provisions of every description. The American article provides for the liberty of importing other articles of the growth, produce, or manufacture of the United States, and the importation of which shall not be entirely prohibited from every other place whatever. The British article narrows the limitation to articles not prohibited from every other foreign place, so that it would reject articles which might, at the same time, be imported from the British colonies in North America.

3. That the American projet provides for the liberty of exporting molasses and salt, (omitting rum,) and sugar and coffee, to the amount of one-fourth part of the tonnage of the vessel, and other articles, the exportation of which to other foreign countries is not entirely prohibited. The British projet, adding the article of rum, denies those of coffee and sugar, and allows only the exportation of other articles not prohibited to be exported to other foreign countries in foreign vessels; so that articles allowed to be exported to other foreign countries in British vessels would still be prohibited from exportation in vessels of the United States.

These differences, so important in themselves, became still further aggravated by a comparison between the two articles for regulating the intercourse between the United States and the British North American provinces of Nova Scotia and New Brunswick, respectively connected with the West India trade article. The American proposal is, that the vessels of both nations should be allowed to export from the United States into Nova Scotia and New Brunswick the same articles, the importation of which should be allowable by the West India article into the West Indies in American vessels, and any other articles, the importation of which from every other country should not be prohibited; and that the vessels of both nations should have liberty to import from Nova Scotia and New Brunswick into the United States, gypsum and grindstones, and any other article the growth, produce, or manufacture of those provinces, the importation of which into the United States from every other foreign country shall not be prohibited.

The British proposal is, that the vessels of both nations should be allowed to export from the United States into Nova Scotia and New Brunswick, not only the same articles to be admitted by the direct trade to the West Indies, but the additional articles of scantling, planks, hoops, fruits, and seeds, with a specific enumeration of grain and breadstuffs instead of provisions; and

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that the vessels of both nations should be allowed to import from Nova Scotia and New Brunswick into the United States, not only gypsum, grindstones, and any other articles, the growth, produce, or manufacture of the said provinces, but also any produce or manufacture of any part of His Britannic Majesty's dominions, the importation of which into the United States shall not be entirely prohibited.

To complete this review, we are to compare the proposals of the two parties in relation to the trade between the United States and the island of Bermuda.

The American proposal is to include it in the West India trade article, and thereby place it on precisely the same footing as the West India islands.

The British article of 19th March, 1817, proposed that the vessels of both nations should be allowed to import from the United States into the island of Bermuda, not only the articles proposed by the British West India article to be admissible in the West Indies, but hemp, flax, masts, yards, bowsprits, plank, timber, and lumber of any sort, breadstuffs enumerated, and grain of any sort, of the growth or production of the United States; and that they should be allowed to export from Bermuda to the United States any goods or commodities whatsoever, exportable by law from the British West Indies to any foreign country in Europe; and, also, sugar, molasses, coffee, cocoa-nuts, ginger, and pimento, and all goods of British growth, produce, or manufacture.

The views of the British Government, in these connected proposals, are elucidated by the right which, in the West India trade article, they insist upon reserving, to impose higher duties upon all articles so importable from the United States to the West Indies, than upon all similar articles when imported from any of His Majesty's dominions, and being of the growth, produce, or manufacture of His Majesty's possessions; and, by the statement of the British Plenipotentiaries, at the eighth conference, as entered upon the protocol, that they could not sign any article concerning the direct trade between the United States and the West Indies, unless with their proposed articles concerning the intercourse of the United States with Nova Scotia and New Brunswick, and with the island of Bermuda.

No objection will, on our part, be made to the exception of the articles proposed by the British project to be excluded entirely from the trade, namely, salted provisions of every description, although their probable value is equal to one-third of the whole mass of the exports to the West Indies; but it cannot be disguised that, if the three articles, taken together, would not, in their immediate operation, secure the carrying of the whole trade in British shipping, to the exclusion of that of the United States, they would at least leave the ultimate operation entirely at the discretion of the British Government, who, by proportioning the difference of duties upon the articles of our growth, produce, or manufacture, and upon the like articles of the produce, growth,

or manufacture of the British dominions, to the experience of their own interest, may annul entirely the direct importations, and secure the conveyance of the whole to their own ships. They agreed, indeed, to stipulate that the duties upon the direct shall not be other or higher than upon the indirect importations; but all the effect of this engagement is demolished by the right reserved of imposing higher duties on articles of our growth, produce, or manufacture, than upon like articles of their own; for, as the indirect importations would be exclusively in British vessels, it must be expected that all articles imported from British colonies would be received as British produce, without scrutiny with regard to their origin; and thus the produce or manufactures of the United States, imported indirectly through Halifax, St. John's, or Bermuda, would be received as of British produce or manufacture, and less imposed than the same articles imported directly from the United States. And the reserved right of aggravating the duty upon the direct importation being unlimited, might at any time, at the pleasure of the British Government, be made equivalent to a total prohibition; while, at the same time, our power of countervailing legislation would be locked up by the terms of the compact.

With the convention of 20th October, all the documents transmitted by you, relating to the negotiation, were submitted to the Senate. Those relating to the subject of this suspended article were referred to the Committee of Foreign Relations of that body, by whom, towards the close of the session, a confidential report was made; a copy of which is herewith enclosed. The shortness of the time not having admitted of a discussion of the report, it was referred to this Department; and as it is probable that, unless an amicable arrangement of the subject can be effected before the next winter by negotiation, the measures suggested at the close of the report, as essential for completing the experiment of our counteracting system, will be brought forward in Congress, the President, always preferring the principle of arrangement by amicable compromise to the conflict of adversary laws, wishes to make another effort to prevail upon the British Cabinet to adjust this concern by mutual concession, and upon terms of practical reciprocity.

You are, therefore, authorized to agree to two additional articles, as supplementary to the convention, accepting the restricted list of articles as proposed by the article which the British Plenipotentiaries offered at the eighth conference, and submitting to the exclusion of salted provisions, and to the confined list of naval stores and lumber, among the importable, and to the exclusion of sugar and coffee from the list of the exportable articles in American vessels, in the direct trade with the West Indies; but with the condition that the list of importable articles to the West Indies shall be the same as that to Bermuda and to the North American colonies; and that the exportable articles shall be confined to such as are of the growth, produce, or manufacture of



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the British West India and North American colonies; and that no other or higher duties shall be payable on importations from the United States, directly or indirectly, than on similar articles imported from any foreign country, or from any of the British colonies themselves.

A draught of two articles to this effect, and forming a compromise between the articles proposed by you at the third, and those offered by the British Plenipotentiaries at the fifth and eighth conferences, is herewith enclosed. We consent, by this proposal, to restrict the list of articles to be admitted in the trade, even as the British Cabinet itself desires; but we adhere to the principle that, of this traffic, thus limited, our shipping shall have the chance of carrying its fair proportion, and shall stand upon equal terms of competition with the British. It is not intended that you should be confined to the letter of this draught. It may be modified in regard to the expression, as you think proper; and, if desired by the British Government, the two passages included within brackets in the draught of the first article may be omitted. But you will candidly state to Lord Castlereagh, that our ultimate object of participating in the navigation of this necessary trade having been explicitly avowed, must be steadily pursued; that we may deem it more for our interest to leave it on the footing of reciprocal mutual regulation, than to bind ourselves by any compact, the result of which must be to disappoint us of that object; that we think the effect of the three articles declared to be inseparable by the British Plenipotentiaries, would be to deprive us even of the portion of the carrying trade which we have already secured by our existing laws, and which we believe we can further secure; and that it is far better for the harmony of the two nations to avoid any bargain in which either party, after agreeing to it, shall have, by the experience of its effect, the sentiment of having been overreached brought home to its councils. We ask for no such engagement on the part of Great Britain. We have too much confidence in the wisdom and liberality of her Cabinet to believe that they would wish to obtain such an engagement from us. At every step of counteracting regulation that we have taken, or shall take, in this concern, we proceed with reluctance, because we are convinced it might be adjusted more to the mutual interest and mutual understanding by amicable arrangement than by countervailing legislation. But, to whatever arrangement we may subscribe, we are convinced it can answer no useful purpose, unless it shall prove to be founded on the reciprocity of real effects, instead of hinging upon that of words.

Your power heretofore given is considered sufficient to authorize you to sign two additional articles of the substance of those enclosed, with any person or persons duly authorized by the British Government. If agreed to, they may be declared supplementary to those of the convention of the 20th of October, and to be of the same duration. They must, of course, be submitted to the sanction of the Senate for ratification here.

I am, very respectfully, sir your most obedient servant,

JOHN Q. ADAMS.

ART. 1. The vessels of the United States and British vessels shall have liberty to import, from any of the ports of the United States to which any foreign vessels are permitted to come, into any of the following ports, namely: Kingston, Savannah le Mer, Montego bay, Santa Lucia, Antonio, Saint Anne, Falmouth, and Porta Maria, in the island of Jamaica; San Joseph, in the island of Trinidad; Scarborough, in the island of Tobago; Saint George, in the island of Granada; Kingston, in the island of Saint Vincent; Bridgetown, in the island of Barbadoes; Rosseau, in the island of Dominica; St. John's, in the island of Antigua; Road Harbor, in the island of Tortola; the principal port of Turk's Island; Nassau, in the island of New Providence; Pittstown, in Crooked Island; and the principal port of the island of Bermuda, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, (except salted provisions of any description, whether meat, fish, or butter,) such articles being the growth, produce, or manufacture of the United States, [and any other articles of the growth, produce, or manufacture of the United States, the importation of which into the above-mentioned ports shall not be entirely prohibited from every other foreign country or place.] And the vessels of the United States and British vessels shall have liberty to export, from any of the said ports of His Britannic Majesty's dominions, to any of the aforesaid ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture of any of the above-mentioned dominions, [and any other articles of the said growth, produce, or manufacture, the exportation of which to any other foreign country or place shall not be entirely prohibited.]

The vessels of either party, employed in the trade provided for by this article, shall be admitted in the ports of the other, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the above-mentioned ports of the other party, for the purpose of disposing of their inward, and of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation from the United States into the above-mentioned ports of the British colonies, or from the said ports into the United States, of any of the articles importable by virtue of this convention, when imported in the vessels of either of the two nations, than when imported in the vessels of the other; nor when imported directly between the United States and the said ports, or vice versa, than when imported in a circuitous manner. No other or higher duties shall be charged upon any of the above-mentioned articles, when imported by virtue of this convention

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into the United States, or into any of the ports aforesaid, than may be charged on similar articles when imported from any foreign country into the United States, or from any other country or place whatsoever into the said ports. The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported from the said British ports to the United States, or from the United States to the said ports, whether in vessels of the United States or in British vessels.

ART. 2. The vessels of the United States and British vessels shall have liberty to export from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in Nova Scotia, and of St. John's, in New Brunswick, and to any other port within the said provinces of Nova Scotia and New Brunswick, to which vessels of any other foreign nation shall be admitted, any article of the growth, produce, or manufacture of the United States, which, by virtue of the preceding article, is importable from the United States into the British colonial ports therein named, and upon the same terms in regard to the payment of duties and charges; and they shall have liberty to import from any of the aforesaid ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, the produce or manufacture of the said provinces, and any other articles of the said produce or manufacture, the exportation of which from the said provinces, and the importation of which into the United States, to or from any other foreign country, shall not be altogether prohibited. The vessels of either party employed in this trade, shall pay no other or higher duties or charges than those of the other. The same duties of importation and of exportation shall be paid on the articles imported or exported by virtue of this article, and the same bounties allowed on their exportation, whether in vessels of the United States or in British vessels.

*Extract of a letter from Mr. Rush, Envoy, &c., at London, to Mr. Adams, Secretary of State, dated*

LONDON, June 14, 1819.

I was honored, on the 8th instant, with your despatch No. 17, of the 7th of May.

On the 9th I addressed a note to Lord Castlereagh, to request an interview, that I might proceed to lay before this Government, without losing any time, the determinations to which the President had come on the important subject of the commercial intercourse between the United States and the West Indies. His Lordship appointed yesterday for me to wait upon him.

I commenced with calling to mind the point at which the discussion had left off upon this branch of the negotiation last Autumn, and gave a new assurance of the President's earnest desire to see this trade opened upon a footing of entire

and liberal reciprocity, rather than stand any longer upon the conflict of arbitrary laws. In this spirit I was instructed to offer a projet, which had been carefully drawn up upon the basis of a compromise between the pretensions of the two parties, and which, indeed, would be found to fall in so entirely with the propositions of Great Britain, in some respects, and to make such an approximation to them in others, that a hope was cherished of its proving acceptable.

That, in particular, it would be found to adopt the description of naval stores and of lumber, as articles to be exported from the United States, upon which the British Plenipotentiaries had themselves insisted—confining the former to pitch, tar, and turpentine, and the latter to staves, headings, and shingles, contrary to the more enlarged signification which it had been the desire of the American Plenipotentiaries to give to them; that it acquiesced also in the exclusion of all salted provisions, including the important article of fish; that it, moreover, came wholly into the British views, in consenting to the exclusion of sugar and coffee as articles to be imported into the United States from the British West Indies; it being understood that the above traffic was to be opened upon equal terms, in all respects, to American and British vessels.

In return for such an accommodation to the colonial views of Great Britain, the projet asked, on the other hand, that the list of articles exportable from the United States to the West Indies should be the same as to Bermuda, and to the British North American colonies; that the articles exportable to the United States should be confined to such as were of the growth, produce, or manufacture of the above islands or colonies; and that the same duties, and no more, should be payable on importations from the United States into the West Indies, whether the articles were brought directly or indirectly, as on similar articles imported into the West Indies from any foreign country, or from any of the British colonies.

With this outline of its contents, I handed a copy of the projet which came enclosed in your despatch to his Lordship. The discussions between the Plenipotentiaries of the two Governments having recently been so ample on the matters which it embraces, I thought that nothing was likely to be gained by my leaving room for the possible hope that any of its essential provisions would be departed from. Accordingly, I deemed it best to say with candor, in the first instance, that as it was offered, so was it to be taken; for that my present instructions would admit of no deviations, unless on points verbal, or otherwise immaterial. I shall bear in mind that the parts within crotchets may be omitted. His Lordship received it with an assurance that a full and candid consideration would be given to it. The pressure of Parliamentary business might, he said, delay an attention to it for some weeks, but that at as early a day as was practicable it would be taken up. I replied, that I believed that the great object would be attained on our side if a decision were communicated to me in full time

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to be made known to the President before the next session of Congress. Should our propositions prove acceptable, I was empowered, I added, to make them supplementary to the convention of the 20th of October, subject always to the ratification of the Senate. I here closed, having endeavored in the course of my remarks to convey to his Lordship's mind those general reasonings applicable to our propositions which are unfolded in your despatch, and to which I shall again advert on future occasions, should it become necessary. The confidential report of the 19th of February, by the Committee of Foreign Relations in the Senate, was safely received under cover of your despatch.

*Extracts of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, September 17, 1819.

Lord Castlereagh came to town on the 15th instant, and granted me an interview yesterday on the business of the West India trade.

Holding in his hands the proposals I had submitted, his Lordship premised that he thought it would be perhaps best for him to answer them in the same general way that the British articles, submitted through my predecessor in 1817, had been answered; that is, not in any formal manner, but merely by a word of conversation with me. I said that I was sure that the form of the answer would make no difference; its transmission to my Government, in whatever mode his Lordship might be pleased to convey it to me, would doubtless effect every substantial purpose.

In the answer there was no hesitation. Our proposals, he said, were not of a nature to form the basis of any agreement between the two countries. They would effect an entire subversion of the British colonial system: from this system they were not prepared to depart. Their colonies were, in many respects, burdensome, and even liable to involve the country in wars. Garrisons and other establishments were constantly maintained in them, at a heavy charge. In return, it was just that they should be incumbered with regulations, the operation of which might help to meet, in part, the expenses which they created. The great principle of these regulations was known to be the reservation of an exclusive right to the benefit of all their trade—a principle, of which the free-port acts had, it was true, produced some relaxation; but it had never been the intention of this Government to do any thing more than to offer to us a participation in these acts. Some modifications of them would have been acquiesced in, suggested by local causes, and an anxious desire that our two countries might come to an understanding on this part of their intercourse. But to break down the system was no part of their plan. Our proposals, therefore, could not be accepted. Such were his remarks.

I observed, that to break down the system was not our aim. All that we desired was, that the trade, as far as it was gone into at all, should be open to the vessels of both nations upon pre-

cisely equal terms. If the system fell by such an arrangement, it was as an incident, and only showed how difficult it seemed to render its long continuance consistent with a proper measure of commercial justice towards us.

So broad and unequivocal was his Lordship's refusal, that it seemed almost superfluous to ask him to be more particular; yet, perceiving in me a wish to be made acquainted rather more specifically with the objections, he said that he would not scruple to mention them without, however, entering into details, for which he was not prepared, and which had been amply unfolded on both sides during the negotiation this time twelvemonth. The objections were three-fold. First, we asked an enumeration, by name, of all the ports in the West Indies that we desired should be open to our vessels; secondly, that the trade between the United States and the British colonies on the continent of America, and with Bermuda, should be confined within the same limits as that between the United States and the West India islands direct; and, thirdly, we asked that the duties on articles imported from the United States into the islands, in American ships, should be no higher than on the same articles when imported in British ships from the United States, or from any other country, without saying foreign country. These three provisions, particularly the second and third, would form insurmountable obstacles to the conclusion of any convention which should purport to embrace them.

I contented myself with replies as general. The communications from the joint mission last year, as well as some separate ones from this legation after it was over, will have informed the President how fully the views of our Government, on the injustice of this system, in all its past effects, upon us, have heretofore been stated. On this occasion I remarked, as to the first objection, that it was plain that, if the ports were not specially named, the privilege of admission to them would, at any time, be revokable whenever Great Britain thought fit to exclude from them any other foreign vessels. It would be, in short, a privilege with nothing positive or certain in its character. As to the second, I said that, should an indirect trade be opened with the islands in any greater extent than the direct trade, nothing was more clear than that the greater part, or the whole, would soon be made to flow in the channel of the former, to the manifest advantage of British bottoms. On the third objection, I said that an explanatory remark or two was all that I should add (it would be but repetition) to what had often been urged before. That we should deny to Great Britain the common right of protecting the industry of a part of her own dominions, by laying discriminating duties in its favor, might be thought, at first blush, to wear an appearance not defensible; but it would be found, on a moment's examination, to be strictly so. The system built up by Britain must be looked at altogether. It was in itself so inverted and artificial, that principles not disputed in the abstract ceased to be just when applied to it. Though one and

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all of these colonies were, indeed, of her dominion, yet were they made to stand, with respect to us, in the light of separate and independent countries. This was the keystone of the colonial doctrine. Why should we not, in turn, adopt and apply it to Great Britain? If we stipulated not to impose upon articles imported into the United States from the British West Indies any higher duties than upon the same articles coming from any other foreign country, a similar provision by Great Britain, to impose on articles exported from the United States to her islands no higher duties than on the same articles when brought from any other foreign country, would obviously be one of but nominal reciprocity; since, after her own dominions on the continent of America, there was no other place whence such exportations to her islands would ever be made. Thus it was that this third provision, combined with the two others, became necessary to enable the United States, whilst prosecuting a trade with the British West Indies, to place their navigation upon a footing, not of verbal merely, but of real equality. It was the latter alone that could lay the foundations of a compact between the two nations that could ever be satisfactory or lasting.

His Lordship did not hold to such views, and the conversation was not prolonged. It is proper for me to add, that he requested it to be understood that, whilst our proposals were declined, it was altogether in a friendly spirit, and that no complaint would be made, as had frequently been intimated, at our resorting to any just and rightful regulations of our own which we might deem necessary to meet theirs, in relation to these islands. I rejoined, that I thought it probable that some such regulations would, before long, in addition to those existing, be adopted.

Having earnestly endeavored to fulfil all my instructions, in their full spirit of anxiety for a different result upon this subject, my duty appears now to have arrived at its close.

*Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy, &c. at London, dated*

DEPARTMENT OF STATE, May 27, 1820.

I have the honor of transmitting, herewith, a copy of the laws passed at the last session of Congress, which closed on the 15th instant, among which you will find one, page 116, entitled "An act supplementary to an act concerning navigation," which has an important bearing upon our commercial relations with Great Britain.

The subject to which that act relates has so recently and so fully been discussed between the two Governments, that it may be superfluous, though it cannot be unseasonable, to assure the British Cabinet, as you are authorized to do, that it was adopted with a spirit in nowise unfriendly to Great Britain; and that, if at any time the disposition should be felt there to meet this country by arrangements founded on principles of reciprocity, it will be met, on the part of the United States, with an earnest wish to substitute

a system of the most liberal intercourse, instead of that of counter-prohibitions, which this act has only rendered complete.

## CONVENTION WITH GREAT BRITAIN.

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, desirous to cement the good understanding which happily subsists between them, have for that purpose, named their respective Plenipotentiaries, that is to say: the President of the United States, on his part, has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to the Court of France; and Richard Rush, their Envoy Extraordinary and Minister Plenipotentiary to the Court of His Britannic Majesty: and His Majesty has appointed the right honorable Frederick John Robinson, treasurer of His Majesty's Navy, and president of the committee of Privy Council for trade and plantations; and Henry Goulburn, Esq., one of His Majesty's under Secretaries of State: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ART. 1. Whereas differences have arisen respecting the liberty, claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon islands; on the shores of the Magdalen islands; and also on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the straits of Belleisle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company: and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter

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and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

ART. 2. It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of His Britannic Majesty, and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of the territories of His Britannic Majesty, from the Lake of the Woods to the Stony mountains.

ART. 3. It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two Powers: it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves.

ART. 4. All the provisions of the convention "to regulate the commerce between the territories of the United States and of His Britannic Majesty," concluded at London on the third day of July, in the year of our Lord one thousand eight hundred and fifteen, with the exception of the clause which limited its duration to four years, and excepting, also, so far as the same was affected by the declaration of His Majesty respecting the island of St. Helena, are hereby extended and continued in force for the term of ten years from the date of the signature of the present convention, in the same manner as if all the provisions of the said convention were herein specially recited.

ART. 5. Whereas it was agreed, by the first article of the Treaty of Ghent, that "all territory, places, and possessions, whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places,

and which shall remain therein upon the exchange of the ratifications of this treaty; or any slaves or other private property." And whereas, under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at the date aforesaid, on shore, or on board any British vessel lying in waters within the territory or jurisdiction of the United States. And whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the Treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all or any slaves, as above described, the high contracting parties hereby agree to refer the said differences to some friendly sovereign or State, to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters referred.

ART. 6. This convention, when the same shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, and by His Britannic Majesty, and the respective ratifications mutually exchanged, shall be binding and obligatory on the said United States and on His Majesty; and the ratifications shall be exchanged in six months from this date, or sooner, if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have hereunto affixed the seal of their arms. Done at London, this twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen.

[L. S.]	ALBERT GALLATIN,
[L. S.]	RICHARD RUSH,
[L. S.]	FRED. JOHN ROBINSON,
[L. S.]	HENRY GOULBURN.

#### SPAIN—RATIFICATION OF THE CONVENTION OF 1802.

[Communicated to the House, January 5, 1819.]

*To the House of Representatives  
of the United States:*

I transmit to Congress a proclamation, dated the 22d of last month, of the convention made and concluded at Madrid, between the Plenipotentiaries of the United States and His Catholic Majesty, on the 11th of August, 1802, the ratifications of which were not exchanged till the 21st ultimo.

JAMES MONROE.

JANUARY 5, 1819.

BY THE PRESIDENT OF THE UNITED STATES.

#### A PROCLAMATION.

Whereas a convention between the United States of America and His Catholic Majesty,

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made and concluded at Madrid on the 11th day of August, in the year one thousand eight hundred and two, by Charles Pinckney, at that time Minister Plenipotentiary of the United States in Spain, and Don Pedro Cevallos, Counsellor of State, Gentleman of the Bedchamber, First Secretary of State, and Superintendent of Posts and Post Offices, fully authorized and empowered by their respective Governments, was duly ratified by the then President of the United States, by and with the advice and consent of the Senate thereof, on the ninth day of January, in the year one thousand eight hundred and four, and was ratified by the King of Spain on the 9th day of July last past: and whereas the ratifications of the two Governments were exchanged in this city on the 21st day of December, by John Quincy Adams, Secretary of State of the United States, on the part of the United States, and Don Luis de Onís, Envoy Extraordinary and Minister Plenipotentiary from Spain, on the part of Spain; which convention is, word for word, as follows:

*A Convention between His Catholic Majesty and the United States of America, for the indemnification of those who have sustained losses, damages, or injuries, in consequence of the excesses of individuals of either nation, during the late war, contrary to the existing treaty or the laws of nations.*

His Catholic Majesty and the Government of the United States of America wishing amicably to adjust the claims which have arisen from the excesses committed during the late war by individuals of either nation, contrary to the laws of nations or the treaty existing between the two countries, His Catholic Majesty has given, for this purpose, full powers to his Excellency Don Pedro Cevallos, Counsellor of State, Gentleman of the Bedchamber in employment, First Secretary of State and Universal Despatch, and Superintendent General of the Posts and Post Offices in Spain and the Indies; and the Government of the United States of America to Charles Pinckney, a citizen of the said States, and their Minister Plenipotentiary near His Catholic Majesty, who have agreed as follows:

1. A Board of Commissioners shall be formed, composed of five Commissioners, two of whom shall be appointed by His Catholic Majesty, two others by the Government of the United States, and the fifth by common consent; and in case they should not be able to agree on a person for the fifth Commissioner, each party shall name one, and leave the decision to lot; and hereafter, in case of the death, sickness, or necessary absence, of any of those already appointed, they shall proceed, in the same manner, to the appointment of persons to replace them.

2. The appointment of the Commissioners being thus made, each one of them shall take an oath to examine, discuss, and decide, on the claims which they are to judge, according to the laws of nations and the existing treaty, and with the impartiality justice may dictate.

3. The Commissioners shall meet and hold their sessions in Madrid, where, within the term of eighteen months, (to be reckoned from the day

on which they may assemble,) they shall receive all claims which, in consequence of this convention, may be made, as well by the subjects of His Catholic Majesty as by citizens of the United States of America, who may have a right to demand compensation for the losses, damages, or injuries, sustained by them, in consequence of the excesses committed by Spanish subjects or American citizens.

4. The Commissioners are authorized by the said contracting parties to hear and examine, on oath, every question relative to the said demands, and to receive as worthy of credit all testimony the authenticity of which cannot reasonably be doubted.

5. From the decisions of the Commissioners there shall be no appeal, and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims as to the amount of the indemnification which may be adjudged to the claimants; the said contracting parties obliging themselves to satisfy the said awards in specie, without deduction, at the times and places pointed out, and under the conditions which may be expressed by the Board of Commissioners.

6. It not having been possible for the said Plenipotentiaries to agree upon a mode by which the above-mentioned Board of Commissioners should arbitrate the claims originating from the excesses of foreign cruisers, agents, consuls, or tribunals, in their respective territories, which might be imputable to their two Governments, they have expressly agreed that each Government shall reserve (as it does by this convention) to itself, its subjects or citizens, respectively, all the rights which they now have, and under which they may hereafter bring forward their claims, at such times as may be most convenient to them.

7. The present convention shall have no force or effect until it be ratified by the contracting parties, and the ratifications shall be exchanged as soon as possible.

In faith whereof, we, the underwritten Plenipotentiaries, have signed this convention, and have affixed thereto our respective seals. Done at Madrid this 11th day of August, 1802.

[L. s.] PEDRO CEVALLOS.

[L. s.] CHARLES PINCKNEY.

Now, therefore, be it known that I, James Monroe, President of the United States, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed. Done at the City of [L. s.] Washington, this twenty-second day of December, in the year of our Lord one thousand eight hundred and eighteen, and of independence the forty-third.

JAMES MONROE,

By the President:

J. Q. ADAMS.

*Great Britain—West India Trade.*

## GREAT BRITAIN—WEST INDIA TRADE.

[Communicated to the Senate, January 27, 1819.]

[The following Acts of the British Parliament were communicated to the Senate by the Committee of Foreign Relations:]

An Act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports of the West Indies. [June 27, 1805.]

Whereas, by an act passed in the twenty-seventh year of his present Majesty's reign, entitled "An act for allowing the importation and exportation of certain goods, wares, and merchandise, in the ports of Kingston, Savannah le Mer, Montego Bay, and Santa Lucia, in the island of Jamaica; in the port of Saint George, in the island of Granada; in the port of Rosseau, in the island of Dominica; and in the port of Nassau, in the island of New Providence, one of the Bahama islands;" and by several other acts passed subsequently thereto, the ports of Kingston, Savannah le Mer, Montego Bay, Santa Lucia, and Port Antonio, in the island of Jamaica; the port of Saint George, in the island of Granada; the port of Rosseau, in the island of Dominica; the port of Saint Johns, in the island of Antigua; the port of San Josef, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of Nassau, in the island of New Providence, one of the Bahama islands; and the port of Road Harbor, in the island of Tortola, were opened for the importation of certain goods and merchandise, under certain regulations and restrictions; and whereas, it is expedient that such of the provisions of the said acts relating to the importation or exportation of any goods, wares, or merchandise, to or from the aforesaid ports, or any of them, or to the admission of any ships or vessels into the said ports, or any of them, or to any duties payable on such importation, exportation, or admission, as are now in force, should be consolidated into one act, and that such of the said laws as are now temporary should be made perpetual; and that, in addition to the aforesaid ports, the port of Saint Anne, in the island of Jamaica; the port of Pittstown, in Portland harbor, in Crooked Island, another of the Bahama islands; the port of Kingston, in the island of Saint Vincent; and the principal port in the island of Bermuda, should be opened under certain regulations and restrictions. May it, therefore, please your Majesty that it may be enacted, and

*B. Enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by authority of the same, That, from and after the passing of this act, wool, cotton wool, indigo, cochineal, drugs of all sorts, cocoa, logwood, fustic, and all sorts of wood for dyers' use, hides, skins, and tallow, beaver, and all sorts of furs, tortoise-shell, hard wood, or mill-timber, mahogany, and all other woods for cabinet ware, horses, asses, and cattle, being the growth, or pro-*

duction of any of the colonies or plantations in America, or of any country on the continent of America belonging to or under the dominion of any foreign European Sovereign or State, and all coin and bullion, diamonds and precious stones, may be imported from any of the said countries into the several ports of Kingston, Savannah le Mer, Montego Bay, Santa Lucia, Antonia, and Saint Anne, in the island of Jamaica; the port of Saint George, in the island of Granada; the port of Rosseau, in the island of Dominica; the port of St. John's, in the island of Antigua; the port of San Josef, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of Road Harbor, in the island of Tortola; the port of Nassau, in the island of New Providence, one of the Bahama islands; the port of Pittstown, in Portland harbor, in Crooked Island, another of the Bahama islands; the port of Kingston, in the island of Saint Vincent; and the principal port in the island of Bermuda, in any foreign sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by persons inhabiting any of the said colonies or plantations in America, or countries on the continent of America belonging to or under the dominion of any foreign European Sovereign or State, any law, custom, or usage to the contrary notwithstanding.

2. *And be it further enacted, That, from and after the passing of this act, tobacco, being the growth or production of any island in the West Indies, or of any country on the continent of America belonging to or under the dominion of any foreign European Sovereign or State, may be imported from any of the said islands or countries into any of the said ports hereinbefore enumerated, in the like foreign ships and vessels, and be again exported from thence to any part of the United Kingdom, under the same rules, regulations, and restrictions, and subject to the like penalties and forfeitures as are in this act mentioned and contained, with regard to the goods, wares, and merchandise, hereinbefore enumerated:*

5. *And be it further enacted, That all such tobacco so imported into any of the said ports shall, when imported into any part of the United Kingdom from any of the said ports, pay the same duties of customs and excise, and none other, as tobacco the growth or production of any of His Majesty's plantations in the West Indies, or of the territories of the United States of America, and be subject to the same rules, regulations, conditions, and restrictions, and be liable to the same forfeitures and penalties for the breach thereof.*

4. *And be it further enacted, That it shall and may be lawful, from and after the passing of this act, to import into the said port of Nassau, in the island of New Providence, and into the said port of Pittstown, in Portland harbor, in Crooked Island, and into such other port or ports in the said Bahama islands, and into the principal port in the island of Bermuda, and into such port or ports in the islands called Caicos,*

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as shall be approved by His Majesty in Council, sugar and coffee, the produce of any foreign country or plantation, in such foreign ships or vessels, and subject to such rules, regulations, and restrictions as are prescribed in this act with respect to the goods, wares, and merchandise hereinbefore enumerated.

5. *And be it further enacted*, That sugar and coffee which shall be imported into the port of Nassau, in the island of New Providence, or the port of Pittstown, in Crooked Island, or into such port or ports in the said Bahama islands, or into the principal port in the island of Bermuda, or into any such port or ports in the said islands called Caicos, as have been, or may hereafter be, approved by His Majesty in Council, may be imported into and again exported from any of the said ports, without payment of any duties of customs whatever, any law, custom, or usage to the contrary notwithstanding.

6. *And be it further enacted*, That, on the importation of any sugar or coffee into any part of the United Kingdom from the said port of Nassau, in the island of New Providence, or the said port of Pittstown, in Crooked Island, or such other port or ports in the Bahama islands, or the island of Bermuda, or any such ports in the said islands called Caicos, such sugar or coffee shall, respectively, be deemed to be not of the British plantations, and shall be liable to, and shall pay, duty of customs and excise as such, and may be warehoused in like manner, and shall be subject to the regulations of any act or acts of Parliament in force at the time of importation of such sugar or coffee, so far as they relate to sugar or coffee not of the British plantations.

7. *And be it further enacted*, That, from and after the passing of this act, no goods, wares, or merchandise, except such as are hereinbefore enumerated, shall be imported in any foreign ship, sloop, schooner, or vessel whatever, from any of the colonies or plantations in America, or any countries on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, into any of the before-mentioned ports, upon any pretence whatever, upon pain of forfeiting the same, together with the ship, sloop, schooner, or vessel in which the same shall be imported, and the guns, tackle, apparel, and furniture of such ship, sloop, schooner, or vessel; and, in every such case, the same shall and may be seized by any officer or officers of His Majesty's customs or navy, who are or shall be authorized or empowered to make seizures in cases of forfeiture, and shall and may be prosecuted in such manner as hereinafter directed.

8. *And be it further enacted*, That it shall and may be lawful, from and after the passing of this act, to export from any of the said ports to any of the colonies or plantations in America, or any countries on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, in any sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by persons inhabiting any such colony, plantation,

or country, rum of the produce of any British island, and also negroes who shall have been brought into the said islands, respectively, in British built ships, owned, navigated, and registered according to law; and all manner of goods, wares, or merchandise, which shall have been legally imported into the said islands, respectively, except masts, yards, or bowsprits, pitch, tar, and turpentine, and also except such iron as shall have been brought from the British colonies or plantations in America, any law, custom, or usage to the contrary in anywise notwithstanding.

9. *And be it further enacted*, That, from and after the passing of this act, it shall be lawful to export, in any British ship or vessel, owned and navigated according to law, from any of the said islands in this act enumerated to any British colony or plantation in America or the West Indies, any goods or commodities whatever of the manufacture of Europe, and also any goods, wares, or merchandise, which shall have been legally imported into any of the said islands from any of the colonies or plantations in America or any country on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State.

10. *Provided always, and be it further enacted*, That, if any doubts shall arise whether any such goods, wares, or merchandise, intended to be so exported, shall have been legally imported into the said islands, respectively, in this act enumerated, the legality of such importation shall be made appear to the satisfaction of the collector and comptroller, or other principal officer of the customs at the port of exportation, before such goods, wares, or merchandise shall be suffered to be shipped for exportation.

11. *And it is hereby further enacted*, That, from and after the passing of this act, all wool, cotton wool, indigo, cochineal, drugs of all sorts, cocoa, logwood, fustic, and all sorts of wood for dyers' use, hides, skins, and tallow, beaver, and all sorts of furs, tortoise-shell, mahogany, and all other woods for cabinet ware, of the growth or production of any of the colonies or plantations in America, or countries on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, shall be allowed to be exported from any of the said islands in this act enumerated to any part of the United Kingdom of Great Britain and Ireland, under the rules, regulations, securities, restrictions, penalties, and forfeitures, particularly mentioned and provided in an act of Parliament made in the twelfth year of the reign of King Charles II., entitled "An act for encouraging and increasing shipping and navigation," and in another act of Parliament made in the twenty-second and twenty-third years of the reign of King Charles II., entitled "An act to prevent the planting of tobacco in England, and for regulating the plantation trade," and in another act of Parliament made in the twentieth year of his present Majesty's reign, entitled "An act to allow the trade between Ireland and the British colonies and plantations in America and the West Indies and the British



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settlement on the coast of Africa to be carried on in like manner as it is now carried on between Great Britain and the said colonies and settlements," or in any of the said acts with respect to the goods, wares, and merchandise, therein enumerated or described.

12. *And be it further enacted*, That, from and after the passing of this act, no goods or commodities whatever, of the growth, production, or manufacture of the East Indies, or other places beyond the Cape of Good Hope, shall, upon any pretence whatever, be exported from any of the ports enumerated in this act, to any other British colony or plantation in America or the West Indies, upon pain of forfeiting such goods or commodities, together with the ship or vessel in which the same shall be so exported, and the guns, tackle, apparel, and furniture of such ship or vessel.

13. *And be it further enacted*, That, from and after the passing of this act, if any foreign ship or vessel as aforesaid, arriving at or in any of the aforesaid ports, shall have on board any goods or commodities whatever of the growth, production, or manufacture of the East Indies, or other places beyond the Cape of Good Hope, such goods or commodities shall be forfeited, together with the ship or vessel in which the same shall be brought, and all her guns, ammunition, tackle, and apparel, whether such goods or commodities shall be intended to be landed or not, or whether bulk shall have been broken or not.

14. *And be it further enacted*, That no duty of gunpowder, nor any fee or reward whatever, shall be demanded, taken, or received by any officer or officers whatever in the said islands, respectively, in this act enumerated, for any entry, cocket, clearance, or passport, for any foreign ship or vessel, or for any goods, wares, or merchandise imported into or exported from the said islands, respectively, in such foreign ships or vessels, under the like pains and penalties as are inflicted upon officers exacting or receiving greater fees than are allowed by any act or acts of Parliament now in force for regulating the fees of the officers of the customs in His Majesty's colonies and plantations in America.

15. *And be it further enacted*, That all penalties and forfeitures imposed by this act shall and may be respectively prosecuted, sued for, recovered, and divided, in Great Britain, Guernsey, Jersey, or the Isle of Man, or in any of His Majesty's colonies or islands in America, in the same manner and form, and by the same rules and regulations in all respects, in so far as the same are applicable, as any other penalties and forfeitures imposed by any act or acts of Parliament made for the security of the revenue of the customs, or for the regulation or improvement thereof, or for the regulation of trade or navigation, and which were in force immediately before the passing of this act, may be respectively prosecuted, sued for, recovered, and divided, in Great Britain, Guernsey, Jersey, or the Isle of Man, or in any of His Majesty's colonies or islands in America.

16. *And be it further enacted*, That all such clauses, provisions, articles, matters, and things, in any former act or acts of Parliament contained, as relate to the opening and establishing any ports in the islands hereinbefore mentioned, or any of them, for the more free importation and exportation of the goods, wares, and merchandise in this act enumerated, shall, from and after the passing of this act, be, and the same are hereby, repealed.

An Act to permit the importation of rice, grain, and flour from any foreign colonies on the continent of America into certain ports in the West Indies, and to allow certain articles to be imported from the United States of America into the British provinces in North America, for the purpose of exportation to the British islands in the West Indies. [June 30, 1808.]

Whereas, by an act passed in the twenty-eighth year of his present Majesty's reign, entitled An act for regulating the trade between the subjects of His Majesty's colonies and plantations in North America and in the West India islands, and the countries belonging to the United States of America, and between His Majesty's said subjects and the foreign islands in the West Indies, it is enacted, that it shall and may be lawful in certain cases for any of the Governors of the provinces in British North America, therein enumerated, with the advice and consent of their respective councils, to authorize the importation of certain articles, for a limited time, from any of the territories belonging to the United States of America, for the supply of the inhabitants of the said provinces, respectively: and whereas it is expedient that the importation of such articles should be allowed for the purpose of supplying other of His Majesty's colonies than are therein mentioned:

*Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same*, That it shall and may be lawful for any of the Governors, Lieutenant Governors, or Commander-in-Chief for the time being, of the provinces of Nova Scotia or New Brunswick, or of the islands of Cape Breton or St. John's, with the advice and consent of their respective councils, to authorize the importation of the articles enumerated in the said recited act for a limited time, from any of the territories of the United States of America, for the purpose of the same being re-exported to any other of His Majesty's colonies or plantations.

2. And whereas it is provided by an act passed in the forty-fifth year of his present Majesty's reign, entitled An act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports in the West Indies, that certain articles therein enumerated may be imported into the several ports therein named from foreign colonies in the West Indies, and it is expedient that the permission for

*Great Britain—West India Trade.*

such importation should be extended: *Be it enacted*, That, in addition to the articles enumerated in the said act, it shall be lawful to import, under the like authority, restrictions, rules, regulations, penalties, and forfeitures provided in the said recited act, the articles of rice, grain of all sorts, and flour, from any colonies or plantations in America, belonging to or under the dominion of any foreign European Sovereign or State, into any of the free ports in colonies or plantations belonging to His Majesty in the West Indies, which are particularly named in the said act, or in another act passed in the forty-seventh year of His Majesty, respecting the port of Amsterdam, in the island of Curaçoa, in any foreign ship, schooner, or other foreign vessel whatever, not having more than one deck, and being manned and navigated by persons inhabiting any of the said colonies or plantations belonging to any foreign Sovereign or State.

An Act to allow British plantation sugar and coffee, imported into Bermuda in British ships, to be exported to the territories of the United States of America in foreign ships or vessels, and to permit articles the production of the said United States to be imported into the said island in foreign ships or vessels. [July 1, 1812.]

Whereas it is expedient to allow sugar and coffee, the produce of any British colony or plantation in the West Indies, imported into the island of Bermuda in British ships or vessels, to be exported from the port of Saint George, in the said island, to the territories of the United States of America, in foreign ships or vessels; and to allow certain articles of the growth or production of the territories of the said United States to be imported into the said island in foreign ships or vessels, and to be re-exported from thence in British built ships or vessels, to British islands in the West Indies:

*Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same*, That it shall be lawful for sugar and coffee, the produce of any British colony or plantation in the West Indies, imported into the island of Bermuda in any British ship or vessel, to be exported from the port of St. George in the said island of Bermuda, to any part of the territories of the United States of America, in any foreign ship or vessel belonging to any country in amity with His Majesty, above the burden of sixty tons, any law now in force to the contrary notwithstanding.

2. *And be it further enacted*, That it shall and may be lawful to import tobacco, pitch, tar, turpentine, hemp, flax, masts, yards, bowsprits, staves, heading-boards, and plank, timber, shingles, and lumber of any sort, horses, neat cattle, sheep, hogs, poultry, and live stock of any sort, bread, biscuit, flour, pease, beans, potatoes, wheat, rice, oats barley, and grain of any sort, such commodities being of the growth or production of the territories be-

longing the United States of America, from the said territories to the port of St. George, in the island of Bermuda, in any foreign ship or vessel belonging to any country in amity with His Majesty, anything in an act passed in the twenty-eighth year of His present Majesty's reign, entitled "An act for regulating the trade between the subjects of His Majesty's colonies and plantations in North America and in the West India islands, and the countries belonging to the United States of America, and between His Majesty's said subjects and the foreign islands in the West Indies," or in any other act to the contrary notwithstanding.

3. *And be it further enacted*, That it shall and may be lawful to and for any of His Majesty's subjects to export any of the articles before enumerated, which shall have been imported in any foreign ship or vessel from the territories of the United States into the island of Bermuda from said port of St. George to any of His Majesty's islands or dominions in the West Indies, in British built ships and vessels, owned and navigated according to law.

[By a subsequent act, the port of Hamilton is placed on the same situation as the port of Saint George.]

An Act to permit the importation of certain articles into His Majesty's colonies or plantations in the West Indies, or on the continent of South America; and also certain articles into certain ports in the West Indies. [May 23, 1818.]

Whereas it is expedient to allow the importation of certain articles into His Majesty's colonies or plantations in the West Indies, or on the continent of South America:

*Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same*. That it shall and may be lawful to import tobacco, rice, grain, pease, beans, and flour, into any of His Majesty's colonies or plantations in the West Indies, or on the continent of South America, for the supply of the inhabitants thereof, in British built ships, owned, registered, and navigated according to law, from any colony or possession in the West Indies, or on the continent of America, under the dominion of any foreign European Sovereign or State.

2. *And be it further enacted*, That it shall and may be lawful to import pease and beans, being the growth or production of any of the colonies or possessions in the West Indies, or on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, into any of the ports in His Majesty's colonies or plantations in the West Indies, enumerated in an act passed in the forty-fifth year of the reign of his present Majesty, entitled an act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and

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from certain ports in the West Indies; and in another act, passed in the forty-sixth year of the reign of his said Majesty, entitled an act for enabling His Majesty to permit the importation and exportation of certain goods and commodities into and from the port of Road Harbor, in the island of Tortola; and likewise in another act, passed in the forty-ninth year of his present Majesty's reign, entitled an act for allowing the importation and exportation of certain goods and commodities into and from the port of Falmouth, in the island of Jamaica; and in another act, passed in the fifty-second year of his said Majesty's reign, entitled an act for allowing certain articles to be imported into the Bahama islands, and exported therefrom in foreign vessels, and for encouraging the exportation of salt from the said islands; and in another act, passed in the fifty-seventh year of the reign of his said Majesty, entitled an act to extend several acts for allowing the importation and exportation of certain goods and merchandise to Porta Maria, in the island of Jamaica, and to the port of Bridgetown, in the island of Barbadoes, in vessels of the like description, and subject to the like rules, regulations, and restrictions, as are required by the aforesaid acts permitting certain articles to be imported into the ports enumerated therein, and in vessels of the like description, and subject to the like rules, regulations, and restrictions, as are required in an act passed in the fiftieth year of his said Majesty's reign, entitled an act for amending, and continuing so amended until the twenty-fifth day of March, one thousand eight hundred and twelve, an act of the forty-fifth year of his present Majesty, for consolidating and extending the several laws in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports in the West Indies, which was afterwards continued by an act passed in the fifty-second year of his said Majesty's reign, until the twenty-fifth day of March, one thousand eight hundred and fourteen, and revived and made perpetual by another act passed in the fifty-fourth year of the reign of his said Majesty, entitled an act to revive and make perpetual certain acts for consolidating and extending the several laws in force for allowing the importation and exportation of certain articles into and from certain ports in the West Indies.

#### INDEPENDENT GOVERNMENTS OF SOUTH AMERICA.

[Communicated to the House, January 30, 1819.]

WASHINGTON, *January 29, 1819.*

I transmit to the House of Representatives, in compliance with their resolution of the 14th of this month, a report from the Secretary of State concerning the applications which have been made by any of the independent Governments of South America to have a Minister or Consul General accredited by the Government of the

United States, with the answers of this Government to the applications addressed to it.

JAMES MONROE.

DEPARTMENT OF STATE, *Jan. 28, 1819.*

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 14th instant, requesting of the President information whether any application has been made by any of the independent Governments of South America to have a Minister or Consul General accredited by the Government of the United States, and what was the answer given to such application, has the honor of submitting copies of applications made by Don Lino de Clemente to be received as the representative of the Republic of Venezuela; and of David C. De Forest, a citizen of the United States, to be accredited as Consul General of the United Provinces of South America, with the answers respectively returned to them. The reply of Mr. De Forest is likewise enclosed, and copies of the papers, signed and avowed by Mr. Clemente which the President considered as rendering any communication between this Department and him, other than that now enclosed, improper.

It is to be observed that, while Mr. Clemente, in March, 1817, was assuming, with the name of deputy from Venezuela, to exercise with the United States powers transcending the lawful authority of any ambassador, and while, in January, 1818, he was commissioning, in language disrespectful to this Government, Vicente Pazos, in the name of the Republic of Venezuela, to "protest against the invasion of Amelia Island, and all such further acts of the Government of the United States as were contrary to the rights and interests of the several republics and the persons sailing under their respective flags duly commissioned," he had himself not only never been received by the Government of the United States as deputy from Venezuela, but had never presented himself to it in that character, or offered to exhibit any evidence whatsoever of his being invested with it. The issuing of commissions authorizing acts of war against a foreign nation is a power which not even a sovereign can lawfully exercise within the dominions of another in amity with him, without his consent. Mr. Pazos, in his memorial to the President, communicating the commission signed by Mr. Clemente at Philadelphia, and given to General McGregor, alleges, in its justification, the example of the illustrious Franklin in Europe; but this example, instead of furnishing an exception, affords a direct confirmation of the principle now advanced. The commissions issued by the diplomatic agents of the United States in France, during our Revolutionary war, were granted with the knowledge and consent of the French Government, of which the following resolution from the Secret Journal of Congress of 23d December, 1776, is decisive proof:

*"Resolved,* That the commissioners [at the Court of France] be authorized to arm and fit for war

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any number of vessels, not exceeding six, at the expense of the United States, to war upon British property; and that commissions and warrants be for this purpose sent to the commissioners: provided the commissioners be well satisfied this measure will not be disagreeable to the Court of France."

It is also now ascertained, by the express declaration of the Supreme Chief, Bolivar, to the agent of the United States at Angostura, "that the Government of Venezuela had never authorized the expedition of General McGregor, nor any other enterprise, against Florida or Amelia." Instructions have been forwarded to the same agent to give suitable explanations to the Government of Venezuela of the motives for declining further communication with Mr. Clemente, and assurances that it will readily be held with any person not liable to the same or like objection.

The application of Mr. De Forest to be accredited as Consul General of the United Provinces of South America was first made in May last; his credential was a letter from the Supreme Director of Buenos Ayres, Pueyrredon, announcing his appointment by virtue of articles concluded in the names of the United States of America and of the United Provinces of Rio de la Plata, between persons authorized by him, and W. G. D. Worthington, as agent of this Government, who neither had, nor indeed pretended to have, any power to negotiate such articles. Mr. De Forest was informed, and requested to make known to the Supreme Director, that Mr. Worthington had no authority whatsoever to negotiate on the part of the United States any articles to be obligatory on them, and had never pretended to possess any full power to that effect; that any communication interesting to the Supreme Director, or to the people of Buenos Ayres, would readily be held with Mr. De Forest; but that the recognition of him as a Consul General from the United Provinces of South America could not be granted, either upon the stipulation of supposed articles, which were a nullity, or upon the commission or credential letter of the Supreme Director, without recognising thereby the authority from which it emanated as a sovereign and independent Power.

With this determination, Mr. De Forest then declared himself entirely satisfied. But, shortly after the commencement of the present session of Congress, he renewed his solicitations, by the note dated the 9th of December, to be accredited as the Consul General of the United Provinces of South America, founding his claim on the credentials from his Government, which had been laid before the President last May.

A conversation was shortly afterwards held with him, by direction of the President, in which the reasons were fully explained to him upon which the formal acknowledgment of the Government of Buenos Ayres for the present was not deemed expedient. They were also, at his request, generally stated in the note dated the 31st of December.

It has not been thought necessary, on the part of this Government, to pursue the correspondence with Mr. De Forest any further, particularly as he declares himself unauthorized to agitate or discuss the question with regard to the recognition of Buenos Ayres as an independent nation. Some observations, however, may be proper, with reference to circumstances alleged by him, as arguing that a Consul General may be accredited without acknowledging the independence of the Government from which he has his appointment. The Consul of the United States, who has resided at Buenos Ayres, had no other credential than his commission. It implied no recognition by the United States of any particular Government; and it was issued before the Buenos Ayrean declaration of independence, and while all the acts of the authorities there were in the name of the King of Spain.

During the period while this Government declined to receive Mr. Onís as the Minister of Spain, no Consul received an exequatur under a commission from the same authority. The Spanish Consuls, who had been received before the contest for the Government of Spain had arisen, were suffered to continue the exercise of their functions, for which no new recognition was necessary. A similar remark may be made with regard to the inequality alleged by Mr. De Forest to result from the admission of Spanish Consuls officially to protest before our judicial tribunals the rights of Spanish subjects generally, while he is not admitted to the same privileges with regard to those of the citizens of Buenos Ayres. The equality of rights to which the two parties to a civil war are entitled, in their relations with neutral Powers, does not extend to the rights enjoyed by one of them, by virtue of treaty stipulations contracted before the war; neither can it extend to rights, the enjoyment of which essentially depends upon the issue of the war. That Spain is a sovereign and independent Power, is not contested by Buenos Ayres, and is recognised by the United States, who are bound by treaty to receive her Consuls. Mr. De Forest's credential letter asks that he may be received by virtue of a stipulation in supposed articles concluded by Mr. Worthington, but which he was not authorized to make; so that the reception of Mr. De Forest, upon the credential on which he founds his claim, would imply a recognition, not only of the Government of the Supreme Director, Pueyrredon, but a compact as binding upon the United States, which is a mere nullity.

Consuls are, indeed, received by the Government of the United States from acknowledged sovereign Powers with whom they have no treaty. But the exequatur for a Consul General can obviously not be granted without recognising the authority from whom his appointment proceeds as Sovereign. "The Consul," says *Vattel*, (book 2, chap. 2, § 34,) "is not a public Minister; but as he is charged with a commission from his Sovereign, and received in that

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quality by him where he resides, he should enjoy, to a certain extent, the protection of the law of nations."

If, from this state of things, the inhabitants of Buenos Ayres cannot enjoy the advantage of being officially represented before the courts of the United States by a Consul, while the subjects of Spain are entitled to that privilege, it is an inequality resulting from the nature of the contest in which they are engaged, and not from any denial of their rights as parties to a civil war. The recognition of them, as such, and the consequent admission of their vessels into the ports of the United States, operate with an inequality against the other party to that contest, and in their favor.

It was stated in conversation to Mr. De Forest, and afterwards in the note of 31st December, that it would be desirable to the United States to understand whether Buenos Ayres itself claims an entire, or only an imperfect independence; that the necessity of an explanation upon this point arose from the fact that, in the negotiation of the supposed article with Mr. Worthington, the Supreme Director had declined contracting the engagement, though with the offer of reciprocity, that the United States should enjoy at Buenos Ayres the advantages and privileges of the most favored nation; that the reason given by him for refusing such an engagement was, that Spain having claims of sovereignty over Buenos Ayres, the right must be reserved of granting special favors to her for renouncing them, which other nations, having no such claims to renounce, could not justly expect to obtain. Without discussing the correctness of this principle, it was observed that the United States, in acknowledging Buenos Ayres as independent, would expect to be treated on the footing of the most favored nation, or to know the extent and character of the benefits which were to be allowed to others and denied to them; and that, while an indefinite power should be reserved, of granting to any nation advantages to be withheld from the United States, an acknowledgment of independence must be considered premature.

Mr. De Forest answers that this reservation must appear to every one contrary to the inclination as well as the interest of the Government of Buenos Ayres; that it must have been only a proposition of a temporary nature, not extending to the acknowledgment by the United States of the independence of South America, which he is confident would have rendered any such reservation altogether unnecessary, in the opinion of the Government of Buenos Ayres, who must have seen they were treating with an unauthorized person, and suggested the idea from an opinion of its good policy; and, he adds, that Portugal is acknowledged by the United States as an independent Power, although their commerce is taxed higher in the ports of Brazil than that of Great Britain.

It had not been intended to suggest to Mr. De Forest that it was, in any manner, incompatible

with the independence or sovereignty of a nation to grant commercial advantages to one foreign State, and to withhold them from another. If any such advantage is granted for an equivalent, other nations can have no right to claim its enjoyment, even though entitled to be treated as the most favored nations, unless by the reciprocal grant of the same equivalent. Neither had it been meant to say that a nation forfeited its character of acknowledged sovereignty, even by granting, without equivalent, commercial advantages to one foreign Power, and withholding them from another. However absurd and unjust the policy of a nation granting to one, and refusing to another, such gratuitous concessions might be deemed, the question whether they affected its independence or not would rest upon the nature of the concessions themselves. The idea meant to be conveyed was, that the reservation of an indefinite right to grant hereafter special favors to Spain for the remuneration of her claims of sovereignty, left it uncertain whether the independence of Buenos Ayres would be complete or imperfect, and it was suggested with a view to give the opportunity to the Supreme Director of explaining his intentions in this respect, and to intimate to him that, while such an indefinite right was reserved, an acknowledgment of independence must be considered as premature. This caution was thought the more necessary, inasmuch as it was known that, at the same time while the Supreme Director was insisting upon this reservation, a mediation between Spain and her colonies had been solicited by Spain, and agreed to by the five principal Powers of Europe, the basis of which was understood to be a compromise between the Spanish claim to sovereignty and the colonial claim to independence.

Mr. De Forest was understood to have said that the Congress at Tucuman had determined to offer a grant of special privileges to the nation which should be the first to acknowledge the independence of Buenos Ayres. He stated in his notes that he knew nothing of any such resolution by that Congress, but that it was a prevailing opinion at Buenos Ayres, and his own opinion also, that such special privileges would be granted to the first recognising Power, if demanded. It has invariably been avowed by the Government of the United States that they would neither ask nor accept of any special privilege or advantage for their acknowledgment of South American independence; but it appears that the Supreme Director of Buenos Ayres, far from being prepared to grant special favors to the United States for taking the lead in the acknowledgment, declined even a reciprocal stipulation that they should enjoy the same advantages as other nations. Nor was this reservation, as Mr. De Forest supposes, defeasible by the acknowledgment on the part of the United States of South American independence. The Supreme Director could not be so ignorant that it was impossible for this Government to ratify the articles prepared by his authority with Mr. Worthington, and yet to withhold the acknowledg-

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ment of independence. He knew that, if that instrument should be ratified, the United States must thereby necessarily be the first to grant the acknowledgment; yet he declined inserting in it an article securing to each party in the ports of the other the advantages of the most favored nation. It is, nevertheless, in conformity to one of those same articles that Mr. De Forest claimed to be received in the formal character of Consul General.

With regard to the irregularities and excesses committed by armed vessels sailing under the flag of Buenos Ayres, complained of in the note of the 1st of January, it was not expected that Mr. De Forest would have the power of restraining them, otherwise than by representing them to the Supreme Director, in whom the authority to apply the proper remedy is supposed to be vested. The admission of Mr. De Forest in the character of Consul General would give him no additional means of suppressing the evil. Its principal aggravation arises from the circumstance that the cruisers of Buenos Ayres are almost, if not quite, universally manned and officered by foreigners, having no permanent connexion with that country, or interest in its cause. But the complaint was not confined to the misconduct of the cruisers; it was stated that blank commissions for privateers, their commanders and officers, had been transmitted to this country, with the blanks left to be filled up here, for fitting out, arming, and equipping them for purposes prohibited by the laws of the United States, and in violation of the laws of nations. It was observed, that this practice being alike irreconcilable with the rights and the obligations of the United States, it was expected by the President that, being made known to the Supreme Director, no instance of it would again occur hereafter. No reply to this part of the note has been made by Mr. De Forest; for it is not supposed that he meant to disclaim all responsibility of himself or of the Government of Buenos Ayres concerning it, unless his character of Consul General should be recognised. As he states that he has transmitted a copy of the note itself to Buenos Ayres, the expectation may be indulged that the exclusive sovereign authority of the United States within their own jurisdiction will hereafter be respected.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

No. 1.

*Don Lino de Clemente to the Secretary of State.*

WASHINGTON, December 11.

*Eighth year of the Republic, A. D. 1818.*

MOST EXCELLENT SIR: Having been appointed by the Government of the Republic of Venezuela its representative near the United States of North America, I have the honor to inform you of my arrival in this city for the purpose of discharging the trust committed to me; to effect this, I have to request that you will be pleased to inform me at what time it will be convenient for you to afford me an opportunity of present-

ing my respects to you personally, and of communicating to you the object of my arrival in the federal city.

I avail myself of this occasion to tender to you the assurance of the high respect and consideration with which I have the honor to be, sir,

Your most obedient, humble servant,

LINO DE CLEMENTE.

Hon. JOHN QUINCY ADAMS,

*Secretary of State.*

No. 2.

*The Secretary of State to Don Lino de Clemente.*

DEPARTMENT OF STATE,

*Washington, Dec. 16, 1818.*

SIR: Your note of the 11th instant has been laid before the President of the United States, by whose direction I have to inform you that your name having been avowedly affixed to a paper, drawn up within the United States, purporting to be a commission to a foreign officer for undertaking and executing an expedition in violation of the laws of the United States, and also to another paper avowing that act, and otherwise insulting to this Government, which papers have been transmitted to Congress by the Message of the President of the 25th of March last, I am not authorized to confer with you, and that no further communication will be received from you at this Department.

I am, with due consideration, sir, your very obedient servant,

JOHN QUINCY ADAMS.

DON LINO DE CLEMENTE.

No. 3.

No. 1. *Translation of Sir Gregor McGregor's commission.*

The Deputies of free America, resident in the United States of the North, to their compatriot Gregor McGregor, General of Brigade in the service of the United Provinces of New Granada and Venezuela, greeting:

Whereas it is highly important to the interests of the people whom we have the honor to represent, that possession should be taken, without loss of time, of East and West Florida, and the blessings of free institutions and the security of their natural rights imparted to their inhabitants, in pursuance of our instructions, and in conformity to the desires of our respective Governments, we have commissioned Brigadier General Gregor McGregor for the purpose of carrying into execution, either wholly or in part, an enterprise so interesting to the glorious cause in which we are engaged:

Therefore, taking into consideration your zeal and devotion to the Republic, we request you, in the name of our constituents, to proceed, on your own responsibility and that of the above-named provinces to adopt such measures as in your judgment may most effectually tend to procure for our brethren of both the Floridas, East and West, the speedy enjoyment of those benefits to which they are invited by the importance of their geo-

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graphical situation; and for that purpose we authorize you, without departing from the usages and customs of civilized nations in like cases, and the due observance of the laws of the United States, and particularly those regulating their neutrality with foreign Powers, to cause vessels to be armed without the limits of their jurisdiction, and provisionally to grant rank to naval and military officers, until the Government to be established by the free will of the said people can provide in the most suitable mode for the arrangement of their several departments; in the execution of all which, the instructions delivered to you of this date will serve as your guide.

Signed, sealed, and delivered, at the city of Philadelphia, the 31st of March, 1817.

LINO DE CLEMENTE,  
*Deputy for Venezuela.*

PEDRO GUAL,  
*Deputy from New Granada, and as proxy for F. Zarate, Deputy from Mexico.*

MARTIN THOMPSON,  
*Deputy from Rio de la Plata.*

PHILADELPHIA, January 15, 1818—8th.

A true copy of the original in my possession :

LINO DE CLEMENTE.

A true copy : PAZOS.

No. 4.

*From Don Lino de Clemente to Don Vincente Pazos.*

PHILADELPHIA, Jan. 15, 1818—8th.

By letters from General Don Luis de Aury and Don Pedro Gual, dated at Fernandina, the 26th December last, I have been informed that they have commissioned you, for the purpose of presenting to the President of the United States, a protest in the name of the Independent Government of South America, against the invasion of Amelia Island by a naval and military force of the United States, on the 23d of December last, and to demand the restitution of the vessels captured from the enemy, which have been detained, and sent to different ports by American vessels of war.

Although the Government of Venezuela, of whose powers I am bearer, is included in your commission jointly with those in whose name possession was taken of Amelia Island, yet it has seemed to me to be proper specially to authorize you, as I do hereby, to protest, in the name of my said Government, against the invasion of Amelia, and all such further acts of the Government of the United States as are contrary to the rights and interests of the several republics, and the persons sailing under their respective flags, duly commissioned.

And to enable you satisfactorily to prove that Amelia Island was taken from the Spaniards by a competent authority, I enclose a copy of the commission granted to General McGregor on the 31st of March last by the deputies of the independent republics.

The motives alleged by the Government of the United States, in justification of their hostile

measure, serve to prove their own futility, and clearly demonstrate that the sole object was the acquisition of the Floridas, without forming any other calculations than those founded on the more or less exhausted state to which the patriots may reduce the Spanish Government; and, in consequence, the pretext of a want of authority in the parties who took possession of Amelia and Galveston, was one while resorted to; and, at others, that those establishments were formed to serve as a shelter to pirates and smugglers; finally, that no foreign Power could be permitted to establish itself in the Floridas, alleging a secret act passed in 1811, which is applicable to the present case.

I flatter myself it will be very easy for you to prove that the United States have no other grounds for this step than their own convenience, supported by force.

I have repeatedly transmitted an account to my Government of the occurrences at Amelia Island, after its occupation by General McGregor, requesting it to communicate the same to the Government of New Granada, at Casanare; and to enable me to continue my communications, which existing circumstances make interesting, I request, sir, you will be pleased to inform me, as speedily as possible, of the result of your mission.

I have the honor to be, with the highest consideration, sir, your most obedient servant,

LINO DE CLEMENTE.

A true copy : PAZOS.

To SENOR DON VICENTE PAZOS.

No. 5.

*Mr. De Forest to the Secretary of State.*

GEORGETOWN, Dec. 9, 1818.

I have the honor to announce to Mr. Adams that I have again arrived in this District, in order to renew my solicitations to be accredited by this Government as the Consul General of the United Provinces of South America, founding my claim on the credentials from my Government, which were laid before the President in the month of May last.

The information recently acquired by this Government respecting the provinces of South America, I presume has established the fact beyond a doubt, that Buenos Ayres, their capital, and a large proportion of their territory, are and have been free and independent of the Government of Spain for more than eight years, and possess ample ability to support their independence in future; that a regular system of government is established by their inhabitants, who show themselves, by the wisdom of their institutions, sufficiently enlightened for self-government; and that they look up to this great Republic as a model, and their elder sister, from whose sympathies and friendship they hope and expect ordinary protection at least.

The messages of the President of the United States, as well the last as the present year, have created a general belief that the United States

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have placed us on an equal footing with Spain, as it respects our commercial operations; but, sir, it is found not to be the case. A Consul of Spain is known and respected as such by your tribunals of justice, which enables him, *ex officio*, to protect and defend the interests of his countrymen; whereas the verbal permission I have to act in the duties of my office will not avail in your tribunals; and a number of instances have already occurred where the property of my absent fellow-citizens has been jeopardized for want of a legally authorized protector. The case of the Spanish schooner —, a prize to our armed vessels Buenos Ayres and Tucuman, which was brought into Scituate, some time since, by her mutinous crew, after having murdered the captain and mate, by throwing them overboard, is a striking instance of the necessity of there being resident here an accredited agent to superintend the commercial concerns of South America, and without such accredited agent our citizens cannot be considered as completely protected in their rights.

I request you, sir, to lay this communication before the President of the United States as early as it may be convenient, and to assure him that I duly appreciate the friendly reception I met with from his Government on my arrival in this country; and that, as circumstances have since materially altered, I have no doubt but I shall receive his permission to act in the accustomed form.

While I remain, with the highest consideration and respect, your most obedient servant,

DAVID C. DE FOREST.

Hon. J. Q. ADAMS, *Sec. of State.*

No. 6.

*Mr. De Forest to the Secretary of State.*

GEORGETOWN, December 12, 1818.

I took the liberty on the 9th instant of addressing a note to Mr. Secretary Adams, requesting to be accredited as the Consul General of the United Provinces of South America; and have now the honor of informing Mr. Adams that I have lately received an official communication from the Government of Buenos Ayres directing me to inform the Government of this country that the supposed conspiracy against the person of the Supreme Director proves to have originated with an obscure and disappointed individual, who, to gain adherents, pretended to be connected with people of the first respectability and influence, several of whom he named, but who have convinced the Government that they had no knowledge whatever of his base project.

The Supreme Director, anxious to do away any unfavorable impressions which the report of such an affair might cause at this distance, has ordered me to assure the President of the United States that the Government of South America was never more firmly supported, nor its prospects more brilliant, than at the present time.

I have the honor to subscribe myself, with every sentiment of respect and esteem, Mr. Adams's most obedient and most humble servant,

DAVID C. DE FOREST.

Hon. JOHN Q. ADAMS, *Sec. of State.*

No. 7.

*Mr. Adams to Mr. De Forest.*

WASHINGTON, Dec. 31, 1818.

Mr. Adams presents his compliments to Mr. De Forest, and has the honor of assuring him, by direction of the President of the United States, of the continued interest that he takes in the welfare and prosperity of the provinces of La Plata, and of his disposition to recognise the independent Government of Buenos Ayres as soon as the time shall have arrived when the step may be taken with advantage to the interests of South America as well as of the United States.

In the mean time, he regrets that an exequatur to Mr. De Forest, as Consul General of the United Provinces of South America, cannot be issued, for reasons stated in part by the President, in his Message to Congress at the commencement of their present session; and further explained to Mr. De Forest by Mr. Adams, in the conversation which he has had the honor of holding with him. Mr. De Forest must have seen that any privileges which may be attached to the consular character cannot avail, in the judicial tribunals of this country, to influence in any manner the administration of justice; and, with regard to the schooner brought into Scituate, such measures have been taken, and will be taken, by the authorities of the United States, as are warranted by the circumstances of the case and by the existing laws.

With respect to the acknowledgment of the Government of Buenos Ayres, it has been suggested to Mr. De Forest, that, when adopted, it will be merely the recognition of a fact, without pronouncing or implying an opinion with regard to the extent of the territory or provinces under their authority, and particularly without being understood to decide upon their claim to control over the Banda Oriental, Santa Fe, Paraguay, or any other provinces disclaiming their supremacy or dominion. It was also observed that in acknowledging that Government as independent, it would be necessary for the United States to understand whether Buenos Ayres claims itself an entire, or only an imperfect independence. From certain transactions between persons authorized by the Supreme Director, and an agent of the United States, (though unauthorized by their Government,) after the declaration of independence by the Congress at Tucuman, and within the last year, it appears that the Supreme Director declined contracting the engagement that the United States should hereafter enjoy at Buenos Ayres the advantages and privileges of the most favored nation, although with the offer of a reciprocal stipulation on the part of the United States. The reason assigned by the Supreme Director was, that Spain having claims to the sovereignty of Buenos Ayres, special privileges and advantages might ultimately be granted to the Spanish nation as a consideration for the renunciation of those claims. It is desirable that it should be submitted to the consideration of the Government of Buenos Ayres whether, while



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such a power is reserved, their independence is complete; and how far other Powers can rely that the authority of Spain might not be eventually restored. It has been stated by Mr. De Forest that the Congress at Tucuman had passed a resolution to offer special advantages to the nation which should first acknowledge their independence; upon which the question was proposed whether such a resolution, if carried into effect, would not be rather a transfer of dependence from one nation to another, than the establishment of independence? rather to purchase support than to obtain recognition? The United States have no intention of exacting favors of Buenos Ayres for the acknowledgment of its independence; but, in acknowledging it, they will expect either to enjoy, in their intercourse with it, the same privileges and advantages as other foreign nations, or to know precisely the extent and character of the benefits which are to be allowed to others, and denied to them. It should, indeed, be known to the Supreme Director that, while such an indefinite power is reserved, of granting to any nation advantages to be withheld from the United States, an acknowledgment of independence must be considered premature.

In adverting to these principles, it was observed to Mr. De Forest that their importance could not but be peculiarly felt by the United States, as having been invariably and conspicuously exemplified in their own practice, both in relation to the country whose colonies they had been, and to that which was the first to acknowledge their independence. In the words of their declaration, issued on the 4th of July, 1776, they resolved thenceforth "to hold the British nation, as they hold the rest of mankind—enemies in war, in peace friends;" and in the treaty of amity and commerce, concluded on the 6th of February, 1778, between the United States and France, being the first acknowledgment by a foreign Power of the independence of the United States, and the first treaty to which they were a party, the preamble declares that the King of France and the United States, "willing to fix, in an equitable and permanent manner, the rules which ought to be followed relative to the correspondence and commerce which the two parties desire to establish between their respective countries, States, and subjects, have judged that the said end could not be better obtained than by taking, for the basis of their agreement, the most perfect equality and reciprocity, and by carefully avoiding all those burdensome preferences which are usually sources of debate, embarrassment, and discontent; by leaving also each party at liberty to make, respecting commerce and navigation, those interior regulations which it shall find most convenient to itself; and by founding the advantage of commerce solely upon reciprocal utility, and the just rules of free intercourse; reserving, withal, to each party the liberty of admitting, at its pleasure, other nations to a participation of the same advantage."

In the second article of the same treaty it was also stipulated that neither the United States nor

France should thenceforth grant any particular favor to other nations, in respect of commerce and navigation, which should not immediately become common to the other nations, freely, if the concession was free, or for the same compensation if additional.

In answer to Mr. De Forest's note of the 12th instant, Mr. Adams has the honor of assuring him that the President has received with much satisfaction the information contained in it, and will derive great pleasure from every event which shall contribute to the stability and honor of the Government of Buenos Ayres.

Mr. Adams requests Mr. De Forest to accept the assurance of his distinguished consideration.

D. C. DE FOREST, *Georgetown.*

No. 8.

*Mr. Adams to Mr. De Forest.*

WASHINGTON, January 1, 1819.

Mr. Adams presents his compliments to Mr. De Forest, and, in reference to the case of the schooner brought into Scituate, mentioned in Mr. De Forest's communication of the 9th instant, as well as to several others which have occurred of a similar character, requests him to have the goodness to impress upon the Government of Buenos Ayres the necessity of taking measures to repress the excesses and irregularities committed by many armed vessels sailing under their flag and bearing their commissions. The Government of the United States having reason to believe that many of these vessels have been fitted out, armed, equipped, and manned in the ports of the United States, and in direct violation of their laws.

Of the persons composing the prize crew of the vessel at Scituate, and now in confinement upon charges of murder and piracy, it is understood that three are British subjects, and one a citizen of the United States. It is known that commissions for private armed vessels to be fitted out, armed, and manned in this country, have been sent from Buenos Ayres to the United States, with the names of the vessels, commanders, and officers in blank, to be filled up here, and have been offered to the avidity of speculators, stimulated more by the thirst for plunder than by any regard for the South American cause.

Of such vessels it is obvious that neither the captains, officers, nor crews can have any permanent connexion with Buenos Ayres; and, from the characters of those who alone could be induced to engage in such enterprises, there is too much reason to expect acts of atrocity, such as those alleged against the persons implicated in the case of the vessel at Scituate.

The President wishes to believe that this practice has been without the privity of the Government of Buenos Ayres, and he wishes their attention may be drawn to the sentiment, that it is incompatible both with the rights and the obligations of the United States; with their rights, as an offensive exercise of sovereign authority by foreigners within their jurisdiction, and without their consent; with their obligations, as involv-

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ing a violation of the neutrality which they have invariably avowed, and which it is their determination to maintain. The President expects, from the friendly disposition manifested by the Supreme Director towards the United States, that no instance of this cause of complaint will hereafter be given.

Mr. Adams requests Mr. De Forest to accept the renewed assurances of his distinguished consideration.

DAVID C. DE FOREST, Esq.

No. 9.

GEORGETOWN, January 8, 1819.

SIR: It is not my intention to give any unnecessary trouble to the Department of State; but having had the honor of receiving two notes from Mr. Secretary Adams on the 4th instant, dated December 31 and January 1, some explanation appears to be necessary.

In the first place, I do not suppose "that any privileges which may be attached to the consular character can avail in the judicial tribunals of this country to influence in any manner the administration of justice." But I suppose that a Consul duly accredited is, *ex officio*, the legal representative of his fellow-citizens not otherwise represented by an express power; and that the tribunals of justice do and will admit the legality of such representation. Mr. Adams has misunderstood me in another observation, which was, in substance, that there was a general opinion prevailing at Buenos Ayres that the Power first recognising our independence would expect some extraordinary privilege or advantage therefor; and that, in my opinion, the Government of Buenos Ayres would readily grant it if demanded. I know nothing, however, of any resolution having been passed on this subject by the Congress at Tucuman.

It appears, from the relation of a fact in Mr. Adams's note of the 31st ultimo, that the Government of Buenos Ayres had intimated a desire (in the course of a negotiation with an agent of the United States) to reserve the right of granting more extraordinary privileges to Spain on the settlement of a general peace, which must appear to every one contrary to their inclination as well as interest; and it can be accounted for only by supposing that the proposition of the United States' agent was merely of a temporary nature, and did not extend to an acknowledgment by the United States of the independence of South America; which act, I am confident, would have rendered any such reservation altogether unnecessary in the opinion of the Government of Buenos Ayres, who must have seen that they were treating with an unauthorized person, and must have thought it good policy at this time to suggest such an idea. Indeed, were the Government of Buenos Ayres to pursue that course, they would plead the example of a neighboring Power acknowledged to be independent by the United States, and its chief both illustrious and legitimate. It is well known that the Government of Brazil taxes the commerce of the United States about sixty per

cent. higher than that of Great Britain. It may be that Great Britain is entitled to this preference on account of important services rendered by her to the King of Portugal; and permit me to ask you, sir, what services could be rendered to any nation already in existence so great, as would be the acknowledgment by Great Britain, or by the United States, of the independence of South America? Such recognition merely, by either of these Powers, would probably have the immediate effect of putting an end to the cruel and destructive war now raging between Spain and South America, and crown with never-fading laurels the nation thus first using its influence in favor of an oppressed but high-minded people.

The account given by Mr. Adams in his note of the 1st instant, respecting the irregular conduct of vessels sailing under the Buenos Ayres flag, has caused me much mortification, and has already been transmitted to my Government by the Plattsburg; as also a copy of Mr. Adams's frank and friendly communication of the 31st ultimo. The Supreme Director will certainly be desirous to adopt the most prompt and efficacious measures within his power to remedy the evils complained of. But pray, sir, what can he do more than has already been done? The Government of Buenos Ayres have established the most just rules and regulations for the government of their vessels of war, as well as of commerce, and have sent me to this country invested with the title and powers of their Consul General, as well to guard against any breach of those rules and regulations by their citizens and vessels frequenting these seas and the ports of these United States, as to protect them in their rights; but, sir, without a recognition of my powers on the part of this Government, I can have no right whatever to question any individual on the subject of his conduct; nor can any responsibility justly attach to me nor to my Government, during such a state of things, for the irregularities committed.

A considerable number of our seamen are foreigners by birth, who have voluntarily entered our service; therefore it is not a matter of surprise that, of the mutineers of the prize crew of the vessel at Scituate, three should have been born Englishmen, and one a North American. It is, however, an absolute fact, to which I am personally knowing, that the captors of that prize (the Buenos Ayres and Tucuman privateers) were legally fitted out at Buenos Ayres early in the last year, from which port they sailed on a cruise off Cadiz; and it will afford the Government of South America much satisfaction to learn that the United States will prosecute those mutineers, and punish such as are found guilty of crimes, according to the laws.

Before I close this note I beg leave to make a few observations, in answer to one of the reasons for not accrediting me, given by Mr. Adams, by direction of the President of the United States, in a conversation which I have had the honor of holding with him, viz: "That the act of accrediting me as Consul General would be tantamount to the formal acknowledgment of the independ-

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ence of the Government which sent me." I do not profess to be skilled in the laws of nations, nor of diplomacy; nor would I doubt the correctness of any opinion expressed by the President, for whose person and character I have ever entertained the most profound respect; yet I must say, that I cannot understand the difference between the sending of a consular agent duly authorized to Buenos Ayres, where one was accredited from this country, four or five years ago, and has continued ever since in the exercise of the duties of his office, and the reception of a similar agent here. I also beg leave to mention that I was in this country soon after the arrival of the present Minister of Spain, the Chevalier De Onis; and to have heard it observed that, being a political agent, he was not accredited, because the sovereignty of Spain was in dispute; but that the Consuls who acknowledged the same Government (one of the claimants to the sovereignty, and the one not actually in possession of it) were allowed to exercise their functions. If this was the case at that time, the Government of the United States must then have had a different opinion on this subject from what it now has. Mr. Adams will please to bear in mind that I have only solicited to be accredited as a Consular Agent, having never agitated the question of an acknowledgment of our independence as a nation, which most certainly is anxiously desired by the Government and people of South America, but which, being a political question, I have never asked.

Mr. Adams will also be pleased to accept the renewed assurances of my most distinguished consideration and respect.

DAVID C. DE FOREST.

No. 10.

*The Supreme Director of the United Provinces of La Plata, to His Excellency the President of the United States of North America.*

MOST EXCELLENT SIR: The Supreme Government of these provinces have long exerted their zealous efforts to establish the closest and most amicable relations with the United States of America, to which the most obvious interests seem mutually to invite them. This desirable object has hitherto been frustrated by the events of the times; but the moment appears at length to have arrived, which presents to the people of these provinces the flattering prospect of seeing their ardent wishes accomplished. In consideration of these circumstances, and in conformity with the twenty-third of the articles agreed upon with citizen William G. D. Worthington, the agent of your Government in these provinces, I have nominated citizen David C. De Forest, their Consul General to the United States, with the powers specified in his commission and instructions respectively. I therefore request your excellency to grant him the attention and consideration which, in the like case, will be afforded to the public agents of your nation, thereby laying the foundation of those relations which will in future render the name of your excellency memorable in these regions.

I avail myself of this renewed occasion of reiterating to your excellency assurances of the sentiments of respect and consideration with which I have the honor to be, your excellency's most obedient and most humble servant.

JN. MN. DE PUEYREDON.

PRUSSIA, HAMBURGH, AND BREMEN.

[Communicated to Congress February 8, 1819.]  
*To the Senate and House of Representatives of the United States :*

I transmit to Congress, for their consideration, applications which have been received from the Minister resident of Prussia, and from the Senates of the free and Hanseatic cities of Hamburg and Bremen; the object of which is, that the advantages secured by the act of Congress of the 20th of April last, to the vessels and merchandise of the Netherlands, should be extended to those of Prussia, Hamburg, and Bremen. It will appear from the documents that the vessels of the United States, and the merchandise laden in them, are, in the ports of those Governments, respectively, entitled to the same advantages in respect to imposts and duties as those of the native subjects of the countries themselves. The principle of reciprocity appears to entitle them to the return of the same favor on the part of the United States, and I recommend it to Congress that provision to that effect may be made.

JAMES MONROE.

FEBRUARY 6, 1819.

PRUSSIA.

*The Minister Resident of Prussia to the Secretary of State.*

WASHINGTON, November 14, 1818.

The undersigned, Minister resident of His Majesty the King of Prussia, had the honor, on the 21st of November last, to address to the Secretary of State a note, in conformity with the orders of his Government, proposing to the Government of the United States, in relation to the commerce between the two nations, the adoption of the principle of perfect reciprocity as established by the act of 3d March, 1815.

This subject was recommended to the Congress by the President of the United States, in his Message of 19th March last, conjointly with similar propositions made by the Government of the Netherlands, and by the Hanse towns of Hamburg and Bremen. But the act of Congress of 20th April, regulating this object, applied only to the commerce of the Netherlands. By the President's proclamation of 25th July last, the same principle was adopted in regard to Bremen, and, by a subsequent proclamation of the 1st of August as to Hamburg, with this difference: that these proclamations only speak of the produce and manufactures of those two towns; whereas the act of 20th April declares that not only the produce and manufactures of the king-

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dom of the Netherlands, imported into the United States in Dutch vessels, but such produce and manufactures generally, as can only be, or most usually are, shipped from a port or place in the kingdom of the Netherlands, should be subjected to no higher import duties than if imported in vessels of the United States.

Now, the cities of Hamburg and Bremen, more favorably situated for commerce with the United States than the ports of Prussia on the Baltic, are the chief ports of export of the Prussian trade; consequently, the adoption of the principle of perfect commercial reciprocity, between the States of Prussia and the United States, would have but a very partial effect if the produce and manufactures of Prussia, exported in Bremen and Hamburg vessels, did not enjoy similar advantages on importation into the United States in Prussian bottoms.

The object of the present note having been specially recommended to the undersigned in a memoir of the Chancellor of State of His Majesty the King of Prussia, an extract of which was annexed to the note of the 21st of November above referred to, and subsequently by His Majesty's Minister of Foreign Affairs, he had the honor to address the Secretary of State anew, and to repeat the request stated in his aforesaid note. He has to add, that the Government of Prussia the more confidently expects that the Government of the United States will adopt suitable measures to terminate this affair, as, in the ports of Prussia, there exists no discrimination on this point between Prussian vessels and those of the United States and their cargoes.

The undersigned eagerly avails himself of this occasion to offer to the Secretary of State the renewed assurances of his highest consideration.

F. GREUHM.

*Mr. Greuhm to Mr. Adams.*

WASHINGTON, November 21, 1818.

The undersigned, Minister resident of His Majesty the King of Prussia, conceives that he cannot better fulfil the orders of his Government, relative to the re-establishment and extension of the commerce of the States of Prussia with the United States, than by transmitting to the Secretary of State the copy of a memoir, in the form of an instruction, addressed to him at his departure from Berlin by His Majesty's Chancellor of State, the Prince of Hardenberg.

He begs leave to recommend it to the suitable attention of the Secretary of State until he can favor him with the honor of a conference on the subject of its contents; and he avails himself of this occasion to tender to him the assurances of his highest consideration.

F. GREUHM.

BERLIN, June 30, 1817.

With a view to extend the commercial relation of Prussia and the United States of America by promoting the exchange of their produce and manufactures, and thereby rendering the trade

of the two nations reciprocally as beneficial as possible, Mr. Greuhm shall propose to the Government of the United States—

1st. That Prussian vessels shall be subjected in the ports of the United States to no other imposts, charges, and duties than are paid by American vessels.

2d. That articles of Prussian manufacture imported into the United States in Prussian vessels shall pay no higher duties than those imported in American vessels.

Mr. Greuhm is therefore authorized to declare to the Government of the United States that the Government of Prussia is willing to establish a perfect reciprocity in this respect; that is to say, that vessels of the United States shall pay in the ports of the Prussian States no other imposts, charges, and duties than those paid by Prussian vessels, as well for ships as for cargoes, provided Prussian vessels and cargoes shall enjoy the same favors in the ports of the Republic.

This principle of perfect reciprocity having already been formally and generally established by the act of 3d March, 1815, copy of which is annexed, no other formality will consequently be necessary than an authentic declaration on the part of Prussia to obtain the adoption of it in her favor by the United States.

The commerce between the United States and Prussia will by this measure be rendered direct and immediate and be exempt in future from the necessity of resorting to the intervention of any foreign nation for that purpose; and thus the Americans, instead of importing Prussian goods through the medium of the Hamburgers and others, will send their own ships and cargoes directly to Stettin, Dantzic, &c., for those goods. It will further tend to promote their national navigation, by opening a new and beneficial channel of trade. Coming themselves to procure such Prussian goods as they may want, and receiving them from the first hand, they will obtain them of better quality and at more moderate prices.

HARDENBERG.

HAMBURGH.

*The Burgomasters and Senate of Hamburg to the President of the United States.*

PRESIDENT: The blessings of peace having been restored to the world, and Hamburg having resumed her pristine liberty and independence, it was amongst our foremost and most ardent wishes not only to renew our friendly intercourse with the Government of the United States, but, if possible, to make it more intimate and extensive. It is with a view of expressing these sentiments that we take the liberty of addressing your excellency, in full confidence that the friendship which the Government of the United States has formerly shown to us and our citizens is not changed by the severe misfortunes of which our city has been the victim of late years. We presume to rely the more on those sentiments, as we require the support of friendly Powers, and in particular

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of mercantile States, in order to raise us again to our former useful importance. It will be an object of our greatest care to improve our friendly relations with the Government of the United States, and nothing would give us more satisfaction than the mercantile intercourse which connects our town with the United States assuming the greatest importance, and resting upon the most solid foundation. To promote this desirable object, we have, immediately after the reorganization of the constitutional Government of this Republic, caused the custom-house laws to be reported, and the duties to be determined as moderate as possible. These custom-house laws, which establish for the inhabitants of the United States, in respect of their ships, goods, and importations, a perfect equality with our own citizens, and the importations under our own flag, have passed and have already been promulgated last year. We are led, however, to dwell upon them at present, and to refer to these laws, the board of trade of this place having called our attention to an act of Congress dated the 3d of March, entitled "An act to repeal so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise imported into the United States, as imposes a discriminating duty on tonnage between foreign vessels and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States;" desiring we might give to your excellency the assurance required by the said act of Congress of the 3d of March. To this effect we certify to your excellency by these presents:

That, by virtue of the existing laws of Hamburg, and particularly the custom-house laws, the American ships, their loading and importations, are not subject in our city and its ports to any higher duties on the tonnage and on the goods than our own Hamburg ships, their loading and importations; and beg leave to request that your excellency may please to order that the trade and navigation of this city, as much as respects German produce and manufactures, may be relieved from the additional burdens which have till now been exacted, and that they may be admitted to the same privileges which have been bestowed on the trade and navigation of other nations in amity with the United States.

We have the honor to sign, with the sentiments of high consideration and respect, your excellency's most obedient servants, the Burgomasters and Senate of the free Hanseatic city of Hamburg,

WILHELM AMSINCK,  
*Burgomaster, President.*  
T. H. HEISED, *Secretary.*

Given the 13th of November, 1815.

*Mr. Buck to the Secretary of State.*

HAMBURG CONSULATE GENERAL,  
*Philadelphia, August 1, 1818.*

SIR: Under date of the 25th May last, I had the honor to acknowledge the receipt of your let-

ter of the 11th of the same month, conveying to me the exequator as Consul General for the Republic of Hamburg. At the same time, I took the liberty to renew my application to be informed from your department of the determination of his excellency the President of the United States relative to the act of Congress of March 3, 1815, as far as it may interest the commerce with Hamburg; but till now I still remain without any communication on that subject.

The certificate which accompanied the letter of March 3, 1817, from the Senate of Hamburg, (testifying that, in the city and port of Hamburg, American ships, their loading and importations, are perfectly treated on the same footing as, and in every respect equalized with, our own Hamburg ships, their loading and importations, in regard to the custom-house and all other duties and tonnage,) I had the honor to transmit to the Department of State, and afterwards delivered the duplicate in person. This, I understood at the time, was fully satisfactory, and wanted only the determination of his excellency the President of the United States to entitle the city of Hamburg to the privileges prescribed in the act of Congress under date of March 3, 1815.

I observe now a proclamation, under date of the 24th of July last, on the same subject, relative to the Hanseatic city of Bremen, which induces me to a renewal of my application to give the same relief to the trade and navigation of Hamburg.

In expectation of a speedy, favorable reply, I have the honor to remain, with great consideration, sir, your most obedient servant.

C. N. BUCK,

*Consul General from Hamburg.*

HON. JOHN Q. ADAMS.

*Mr. Buck to the Secretary of State.*

HAMBURG CONSUL GENERAL'S OFFICE,  
*Philadelphia, Jan. 23, 1819.*

SIR: Since I last had the honor of conferring with you on the subject of the commercial relations between the free and Hanseatic city of Hamburg and the United States of America, further advices have been received by me; in consequence of which, I take the liberty of addressing this letter to you.

I am instructed, sir, by the Senate of Hamburg to express to you that they have received the communication of the President's proclamation of the 1st August, A. D. 1818, by which all discriminating duties on the tonnage and merchandise of the respective States are abolished; that the Senate of Hamburg also derive the highest satisfaction from the manifestation of liberal and amicable dispositions on the part of the United States to their republic, and that the continuation of those friendly dispositions will always be duly appreciated by them.

But I am also instructed by the Senate of Hamburg to represent to you, sir, that the concluding part of the proclamation of the President, in which it is stated that the aforesaid discrimi-

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nating or countervailing duties on merchandise imported "are repealed, so far as the same respect the produce or manufacture of the said free and Hanseatic city of Hamburg," has given to the Senate of Hamburg sincere cause of objection and regret, as they cannot but perceive in the said modification a most injurious operation in relation to their carrying trade and peculiar interests, and which would, in its necessary tendency, almost destroy totally the basis on which the Senate of Hamburg determined on the abolition of all discriminating or countervailing duties, and would almost entirely exclude their shipping from the ports of the United States.

This objection, sir, is considered by the Senate of Hamburg as being further strengthened, by perceiving that the more favorable stipulation has been entered into by the United States, in relation to the same subject, with the Government of the Netherlands; the injurious consequences of which the Senate of Hamburg are most sensibly aware of.

In addition, sir, I take the liberty of communicating to you that I am instructed by the Senate of Hamburg to have a conference with you on the above subject, and to receive from the Government of the United States a statement of their views and decisions in relation to the same.

I consequently take the liberty to request of you that the subject of the above communication will be laid before the President of the United States, with a hope that the Congress of the United States will pass an act that will meet the views of the Senate of Hamburg, to extend to them the privilege that such goods, produce, and manufactures, as most usually are first shipped from Hamburg, may be considered as their native productions, when imported in Hamburg vessels in the ports of the United States.

With great consideration, I have the honor to renew to you, sir, the assurances of my particular respect, and, in the expectation of your answer, I remain, with great regard, sir, your most obedient servant,

C. N. BUCK,

*Consul General of Hamburg in the U. S.*

Hon. JOHN QUINCY ADAMS,  
*Secretary of State, U. S.*

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BREMEN.

*Mr. Wichelhausen to the Secretary of State.*

BALTIMORE, Jan. 26, 1819.

SIR: I had the honor of addressing you on the 2d and 28th of December, 1818, to which, however, I have not been favored with an answer.

I understand the collector of this port received yesterday a letter from the Treasury Department, stating circulars would be issued in a few days to give directions that Swedish vessels should be put on the same footing with American vessels, and that goods in Swedish vessels should pay no more duty than goods in American vessels. Permit me to hope that this opportunity will be seized by the Treasury Department to include the necessary instructions respecting the duty

upon goods in Bremen vessels. The collector of this port appears to be decidedly of opinion that the Treasury Department, by the act of Congress of the 3d March, 1815, is fully authorized to give the desired construction to that law, and direct the collectors accordingly.

The request of the Bremen Government being founded upon equity and justice, the Senate of Bremen was confident in the hope that it would be granted by the American Government without delay.

I did not think it necessary to proceed again to Washington for the purpose of communicating with you in person on a subject which I understand required no further discussion. However, if it is not acceptable I should address you in writing, I beg to be instructed, and I shall do myself the honor to wait upon you at Washington.

With the highest consideration, I remain, sir, your very humble servant,

H. D. WICHELHAUSEN.

Hon. JOHN QUINCY ADAMS,  
*Secretary of State.*

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*The Burgomasters and Senators of the Free Hanse Town of Bremen to the President of the United States:*

SIR: We have been informed by Mr. Wichelhausen, who had the honor to present to your excellency our letter of the 20th January, 1818, of the proclamation you were pleased to issue on the 24th July last, for the purpose of giving effect to the act of Congress of 3d March, 1815, in favor of Bremen vessels entering American ports.

By this formal equalization of duties, and the simultaneous reimbursement of such as have been paid since the 12th of May, 1815, so far as they exceed the equalization decreed by law, the American Government has given a new and signal proof of that spirit of justice which characterizes its proceedings. We offer to your excellency our sincere acknowledgments for this evidence of your good will towards us, and for your favorable reception of our fellow-citizen, Mr. Wichelhausen.

We presume, however, that your excellency will not hesitate to direct that the provisions of the act of the 3d March, 1815, be made applicable to such products and manufactures as, by the general course of trade carried on here, are exported from our port. The very terms of that act, referring the products or manufactures of the nation to which the foreign vessels belong, seem most clearly to designate articles of the growth or industry of *Germany*, as composed of a body of States, of which Bremen forms an integral part, and to stipulate the equalization of duties in favor of such goods, when exported in Bremen vessels. The treaty concluded with the Government of the Netherlands, extending the equalization of duties "to such produce or manufactures as can only be, or most usually are, first shipped from a port or place in the Kingdom," &c., as well as the tenor of the American act of naviga-

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tion of 1st May, 1817, seem to remove all doubt as to a correspondent application of the act of Congress to goods shipped from our port.

It is only in this view that the object of the act can be attained of removing all the obstacles which have hitherto obstructed the commerce of the Americans with foreign nations. It appearing to be highly interesting to both nations to favor, as much as possible, the trade carried on between the American ports and that of Bremen, we have submitted to your excellency the evidences of our sincere desire to grant the most special favors to the American commerce, and we therefore flatter ourselves that we shall receive the most unqualified proof of the establishment of that reciprocity which forms the avowed principle of the wise policy of the American Government—a policy eminently calculated to render their country prosperous and happy.

With these sentiments, inspired by a full and entire confidence, we recommended anew to your excellency the interest of our city; and we renew to you the assurances of the very high consideration with which we have the honor to be, sir,

Your Excellency's most devoted Burgomasters and Senators of the free Hanse Town of Bremen.

GEORGE DE GRONING,  
*Burgomaster presiding.*

## SPAIN.

## INDEMNIFICATION—LIMITS—FLORIDA.

[Communicated to the Senate, February 22, 1819.]

*To the Senate of the United States :*

I transmit to the Senate a treaty of amity, settlement, and limits, between the United States of America and His Catholic Majesty, concluded and signed this day, for the decision of the Senate as to its ratification. Copies of the correspondence between the Secretary of State and the Minister from Spain, connected with this subject, since the renewal of the negotiation, are likewise enclosed.

JAMES MONROE.

FEBRUARY 22, 1819.

*Translation of a letter from the Minister of Spain to the Secretary of State.*

WASHINGTON, Dec. 30, 1815.

SIR: The diplomatic relations between the King, my master, and the United States, being happily restored, and both Governments being disposed mutually to strengthen the ties of the most pure and perfect friendship, it is my duty to inform the President of whatever may contribute to so desirable an object, and remove the obstacles which may prevent it. On the important points on which this note must turn, I have written to you under other circumstances less favorable than the present. I will now confine myself to a plain and simple explanation of them.

The first of these points is, that the direct and official relations between Spain and the United States having been broken off since the year 1808, the affairs of both nations, as well as their respective frontiers, should now be placed in the same state and situation in which they were at that period; and that, in conformity to this principle, the part of West Florida which the United States took possession of during the glorious insurrection of Spain, and have retained until this day, should be restored to His Catholic Majesty. This just and conciliatory measure, at the same time that it will convince the King, my master, of the purity and sincerity of the sentiments of the American Government, and of their disposition to arrange and terminate amicably the several points of negotiation, will not in the least impair the right which it may believe it has to the whole or a part of the territory occupied, since it will remain subject, exactly as it was before its occupation, to a frank and friendly discussion between the two Governments.

The second point is as simple and obvious as the first, and I will treat of it with that confidence with which I ought to be inspired by the indisputable justice of my importunity, the justification of the American Government, and the importance of the affair.

It is known to you, and is universally public and notorious, that a factious band of insurgents and incendiaries continue with impunity, in the province of Louisiana, and especially in New Orleans and Natchitoches, the uninterrupted system of raising and arming troops to light the flame of revolution in the kingdom of New Spain, and to rob the pacific inhabitants of the dominions of the King, my master. The invasion of the internal provinces, the horrible assassinations committed in San Antonio de Bexar, and the names of the perfidious perpetrators of such unheard-of crimes, have acquired the publicity which great crimes always will acquire. All Louisiana has witnessed these armaments; the public enlistments, (*los enganches publicos*;) the transportation of arms; the junction of the insurgents, and their hostile and warlike march from the territory of this Republic against the possessions of a friendly and neighboring Power. Neither threats, nor the laws, nor the indignation of well-disposed citizens, nor even the proclamation of the President of the 1st of September last, intended to restrain these highway robbers, have been sufficient to stop their nefarious plans. On the contrary, they prosecute them with the greatest ardor and rancor, more and more exasperated at seeing the glorious triumphs of the Spanish nation, the adhesion of his subjects to an adored monarch, and the approaching re-establishment of the relations between our respective nations. It is known to me that they are now enlisting in New Orleans men for other expeditions, both by land and water, to invade again the dominions of His Catholic Majesty, under the direction of ringleaders Jose Alvarez de Toledo and Jose Manuel de Herrera, who has just arrived in that city with the appointment (as he says) of Minister to the United States

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from the self-styled Mexican Congress, who has delivered to Toledo fifteen hundred commissions in blank from that body of insurgents, that he may confer them on a like number of officers which he is recruiting in the territory of this Union. I omit mentioning to you other innumerable acts of this kind, which prove the publicity of these armaments, and the impunity with which they continue. I will confine myself to stating to you that the most common practice of nations, and the authority of the best writers on public law, would give a right to the King, my master, to require of this Government to deliver up these traitors as incendiaries, enemies of all social order, and disturbers of the peace of his subjects; but as the object of my Sovereign is not to avenge himself of these banditti, but to shield his subjects against their barbarity, I confine myself to asking of you to obtain of the President orders for the prosecution of the principal persons concerned in this sedition, that is to say: Jose Alvarez de Toledo, Anaya, Ortey, the self-styled minister Manuel de Herrera, Doctors Robinson and Humbert, Majors Piere and Preire, and their followers; that they may be punished with all the rigor which the laws prescribe in cases of this kind; that the troops which they have raised may be disarmed and dispersed, and that the necessary measures be taken to prevent, in future, these evil spirits from having an opportunity of pursuing their designs, and attempting to compromise the good intelligence which subsists between our respective Governments. The President cannot but have seen with sensibility as well the total want of effect of his proclamation of the lenient measures which he had adopted against these criminals, who boast of recognising no law, subordination, or moral principle, as the protection and support which they have received, and do receive, from the authorities at New Orleans, contrary to his express orders. His Excellency, as he is entrusted by this Republic with watching over its security and the observance of its treaties and laws, cannot but consider himself authorized to restrain the projects and hostile measures of a set of adventurers who make open war against a friendly Power from the territory of this Confederation, compromising its tranquility and high character, by availing himself of the means which the Constitution, the laws, and his prudence offer to him for obliging these persons to abandon their designs, and to manifest to His Catholic Majesty the just indignation with which the United States view the hostile plans and the sedition of that band of incendiaries. I am certain that it cannot be concealed from the distinguished talents of the President and yourself, that the point of which I treat is not one under the civil (or municipal) law—in which case my Sovereign must have recourse to the ordinary tribunals—but that it is a manifest and flagrant violation of the most sacred laws which bind together nations mutually, perpetrated by the citizens or residents of the Union, of which the King, my master, gives information, with positive and notorious proofs to the Government

under whose jurisdiction it has been executed, that they may give him competent satisfaction, with a knowledge of the act, by causing the delinquents to be punished as guilty of high treason against both Governments.

The third and last point is reduced to this: that the President will be pleased to give the necessary orders to the collectors of the customs not to admit into the ports of the United States vessels under the insurrectionary flag of Carthagea, of the Mexican Congress, of Buenos Ayres, or of the other places which have revolted against the authority of the King, my master, nor those coming from them; that they should not permit them to land, or to sell in this country, the shameful proceeds of their piracy or atrocities, and much less to equip themselves in these ports, as they do, for the purpose of going to sea, to destroy and to plunder the vessels which they may meet with under the Spanish flag. This tolerance, subversive of the most solemn stipulations in the treaties between Spain and the United States, and diametrically opposed to the general principles of public security and good faith, and to the laws of nations, produces the most melancholy effects on the interest and the prosperity of the subjects of His Catholic Majesty. Certain it is that neither Carthagea, nor any other place in the Spanish dominions in this hemisphere, which has revolted, can be in communication with any Power friendly to Spain, since neither on its part, nor on that of any other Government, has their independence been acknowledged; and it is, consequently, an offence against the dignity of the Spanish monarchy, and against the sovereignty of the King, my master, to admit vessels from such places, manned and commanded by insurgents, and armed in the dominions of this Confederation; particularly as they are all pirates, who do not respect any flag, are justly considered the disgrace of the seas, and are execrated by all nations.

The three preceding points are of such established equity and justice, that it would be offensive to the delicacy of this Government to suppose that it could delay, under any pretext, to determine on them in the manner I have proposed, and which I have an express order to request (*solicitar*) in the name of the King, my master. The prompt interposition of the President, that His Majesty may be gratified, would be a new testimony of his friendly disposition towards Spain; an evident proof that he is determined to put an end to the incalculable extortions and injuries which Spain has suffered for the space of seven years, from the gang of adventurers who have assailed her from the bosom of this Republic; a means of fixing the frank and sincere system of good neighborhood which so much interests both States; and, finally, a sure preliminary to the removal of all the difficulties which may present themselves in the negotiations which ought to terminate all the pending discussions between the two Governments, and to fix forever between them a perpetual and solid friendship.



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If, as I flatter myself, the President gives all the attention which is due to affairs of such transcendent importance, and yields to my solicitations, I can assure his Excellency, and yourself, that there will be nothing which the King, my master, will not be disposed to do to satisfy this Republic, which may be compatible with his dignity and with the interests of his subjects.

I renew to you the assurances of my particular respect, and of my constant desire to please you, and pray God to preserve your life many years.

LUIS DE ONIS.

Hon. JAS. MONROE, &c.

*Translation which accompanied a note of the 2d January, 1816, from the Chevalier de Onis to the Secretary of State.*

SIR: Since the last note I had the honor to address you, under date of the 30th December, I have received positive information that the expedition which the traitor Toledo was preparing in New Orleans against the dominions of the King, my master, has been suspended until the arrival at that city of two bodies of troops, (one thousand men from Kentucky, and three hundred from Tennessee,) commanded by two American citizens, that were to be united in twenty-four days to the army of the insurgents. I abstain, sir, from offering to you any observations on a subject of such high importance, and so well established. I am well persuaded that his Excellency the President will easily perceive that if the States of Kentucky, Tennessee, Louisiana, and Georgia continue, as they do, allowing their citizens to commit hostilities against a friendly Power, notwithstanding the orders he has issued for dispersing and disarming the gang of *desperadoes* headed by Toledo, Humbert, Anaya, Bernardo Gutierrez, Istri, Doctor Robinson, Majors Piere and Preire, and their followers, the King, my master, will have reason to suspect that, if those meetings are not authorized by the Government, they are at least tolerated. All the assurances I may give to my Sovereign of the friendly dispositions of his Excellency the President will not suffice, when compared with the evident proofs I had the honor to communicate to you in this and my former note; particularly when His Majesty is well convinced of the resources and authority of the Federal Government, and the promptitude with which their orders are strictly observed in the whole Union. I do not entertain any apprehension of the result of the expedition of these incendiaries. The European wars being terminated, His Majesty will be able to direct all his attention, and his powerful armies, to stifle at once the growth of that insurrection; but the philanthropic heart of my Sovereign, the humanity by which he is distinguished, and which constitutes the character of the Spanish nation, induce him to wish to re-establish order among the seduced rather by mildness than by the force of arms, which cannot be effected without the effusion of the blood of his beloved subjects. This object cannot fail to be obtained as soon as

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the Mexican insurgents and those of the internal provinces cease to be furnished, by the citizens of this Republic, with arms, ammunition, and troops.

I shall never have the vain presumption to offer you, or the wise Magistrate that is at the head of this Administration, any observations on the consequences that might result against the interests of this Republic by the independence of Spanish America. My wishes are only directed to equal you in moderation, and to re-establish, on the most firm and permanent basis, the relations between our Governments. This sincere desire will, I hope, serve as an apology for me, while I take the liberty to present an hypothesis in this note.

I grant, for a moment, that all the Mexican empire erects itself into an independent State; that it adopts the wise Constitution of this Confederation; establishes a complete system of legislation; and, finally, that it enjoys all the blessings of liberty in the same full extent as this Republic. It is beyond question that the climate of Mexico is more temperate than that of the United States; the soil richer and more productive; the productions and fruits more abundant, rich, and of a superior quality; and that provisions, labor, wood, houses, clothing, &c., are, in consequence of the mildness and regularity of the climate, much cheaper than in this country. If this event should take place, do you not think, sir, as I do, that so many alluring prospects, and so many evident advantages, will deprive this Republic of the successive emigrations from Europe, and, what is more, of a very considerable part of the most useful and industrious inhabitants of this Confederation, who would carry with them to Mexico their flour and saw-mills, machines, manufactures, their enterprising genius—in a word, their general instruction, and all the means that actually promote and vivify the commerce of these States? I flatter myself that this event will not happen; but I am fully convinced that the consequences of this hypothesis can be demonstrated almost with a mathematical certainty; and that if the citizens of Kentucky, Tennessee, Louisiana, and Georgia, should reflect deeply on this subject, far from giving any aid to those vagabonds, greedy of the acquisition of gold, and regardless of the happiness of their country, they would unite themselves with the authorities of the King, my master, to punish that gang of perfidious traitors that hide themselves in these States with the criminal design of devastating their country. I hope, sir, you will have the goodness to overlook this digression, to which I have been carried by my warm desire of strengthening the most perfect friendship between the two nations, and to inform his Excellency the President that the orders I claim in His Catholic Majesty's name, directed to the trial and punishment of the ringleaders of those armies, and to the prohibition of exporting arms of any kind from this country to the provinces, against my Sovereign's authority, are of the greatest importance, and are supported by the existing treaty of

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friendship, limits, and navigation, between Spain and the United States, especially the sixteenth article.

I expect, sir, your answer to these important points, and I have the honor to be, &c.

*The Secretary of State to the Chevalier De Onis, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty.*

DEPARTMENT OF STATE, Jan. 19, 1816.

SIR: I have had the honor to receive your letters of the 30th of December and 2d of January last, and to submit them to the President.

You demand that your Sovereign shall be put in possession of West Florida; that certain persons, whom you have mentioned, shall be arrested and tried on the charge of promoting insurrection in the Spanish provinces, and exciting citizens of the United States to join in it; and, thirdly, that the flags of Carthage, the Mexican Congress, Buenos Ayres, and other revolting provinces, shall be excluded from the ports of the United States.

On the re-establishment of the diplomatic relations between the United States and Spain, it was hoped that your Government would not have confined its attention to the objects in which Spain is alone interested, but have extended it to the injuries of which the United States have so long and so justly complained, with a view to such reparation as it might now be able to make. The subjects are in their nature intimately connected. In some important circumstances, indeed, it is impossible to separate them, since the exposition of the wrongs of the United States affords the proper answer, in those instances, to the complaints of Spain. It is my duty to bring these wrongs into view, that they may be duly considered and provided for, in case your Government has, as I am bound to presume, invested you with adequate powers for the purpose.

At a period anterior to either of the circumstances mentioned in your letters, the United States had suffered great injury by the unlawful seizure and condemnation of their vessels in the ports of Spain. A treaty providing an indemnity for those spoliation was agreed to and signed by a Minister duly authorized by each Government; but its ratification, though negotiated and concluded in the presence of the Spanish Government, was afterwards declined by it. At an anterior period, too, the deposit at New Orleans, stipulated by the treaty of 1795, was suppressed. As the United States had done no injury to Spain, these acts, so hostile in their nature, and injurious in their effect, excited much surprise. It had been the uniform object of this Government to make such arrangements with Spain respecting the free navigation of the Mississippi and the boundaries, as, securing to our citizens the full enjoyment of their rights, would place the peace and friendship of the two countries on a solid and durable basis. With this view, it was sought to obtain of Spain, at a fair equivalent, the territory eastward of the Mississippi. Overtures to this

effect were made to the Spanish Government, and rejected. Being renewed, the Minister of the United States was informed that Spain had ceded Louisiana to France, to whom he was referred for the acquisition of such territory in that quarter as he might be instructed to make. On the last very important event, the suppression of the deposit at New Orleans, a special mission was instituted to France and Spain, the object of which was to avert, by amicable negotiation and arrangement, the calamities of war. Affairs had, more especially by this act of violence and hostility, reached a crisis which precluded the idea of temporary palliatives. A comprehensive and permanent arrangement had become indispensable, of which, it was presumed, the Governments of France and Spain would be equally sensible. The cession of Louisiana by France to the United States was the immediate consequence of this mission, with such a description of its boundaries by the treaty as, it was presumed, would leave no cause of controversy with Spain.

The mission had thus succeeded in a very important object; but there were others of a similar character which remained to be adjusted. The differences with Spain still existed, and to them was added a circumstance of much interest, proceeding from the acquisition of Louisiana—the unsettled boundaries of the province, which were now to be established with Spain. Under the influence of the same policy, the special mission was ordered soon afterwards to Madrid, to invite a negotiation for the arrangement of all these important concerns. Spain still held territory to the eastward of Perdido, which, by her cession of Louisiana, and its transfer to the United States, was separated from her other dominions, and lay, except on the side of the ocean, exclusively within our limits. The importance of this territory to Spain, in consequence of these events, in any view which might be taken of it, seemed to be much diminished, if not entirely lost; while, in certain views of which it was susceptible, it might prove highly injurious. There was danger that the continuance of a Spanish colony there might produce jealousy and variance between the two nations. On the other hand, the United States had acquired territory westward of the Mississippi, adjoining the provinces of Spain, which it was supposed she might be desirous of obtaining. By mutual cessions of territory in quarters most convenient to each other, and by forming an interval between their possessions to remain vacant, the danger of collision might be avoided, and their good understanding more effectually preserved. By rendering justice likewise to the claims of the United States, their citizens would be contented, and their Government be better enabled to control their conduct beyond their limits. Here, then, seemed to be a fair ground for amicable compromise between the parties. An opportunity was presented for terminating every difference, and securing their future harmony without loss or sacrifice by either. On the result of this mission I need not enlarge.

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I shall remark only that the friendly policy which produced it was not reciprocated by your Government; it was, perhaps, not felt; it was certainly disregarded. Every proposition of the American Ministers, having these objects in view, was rejected, and none made in return by your Government.

This conduct of your Government would have justified, if it did not invite, the most decisive measures on the part of the United States. The refusal to make reparation for preceding injuries, or to surrender any portion of the territory in the possession of Spain, to which they considered their title indisputable, or to accept fair and liberal propositions for the accommodation of these differences, or to make a proposition of any kind for the purpose, left the United States perfectly free to pursue such course as, in their judgment, a just regard to the honor, rights, and interests of the nation might dictate. In the condition of Spain there was nothing to excite apprehension of the consequences, whatever might be the course decided on. Of this, the well-known state of the Peninsula at the time, and since, and of the Spanish provinces in America, affords ample proof. The friendly policy which the United States have since pursued is the more conspicuous from the consideration that your Government has inflexibly maintained the unjust and hostile attitude which it then assumed, and has even added new injuries and insults to those of which I have already complained. I refer, in this latter remark, to the breaches of the neutrality of Spain, which her Government permitted, if it did not authorize, by British troops and British agents in Florida, and, through that province, with the Creeks and other Indian tribes, in the late war with Great Britain, to the great injury of the United States. It is under these circumstances that you have made the demands above recited, to which I will now proceed to give a more particular reply.

You require that Spain shall be put into possession of West Florida, as an act of justice, before a discussion of the right of the parties to it is entered on.

It is known to your Government that the United States claim by cession, as a fair equivalent, the province of Louisiana, as it was held by France prior to the treaty of 1763, extending from the river Perdido, on the eastern side of the Mississippi, to the Bravo or Grande, on the western. To the whole territory within those limits, the United States consider their right established by well-known facts and the fair interpretation of treaties. In a like spirit may the United States demand the surrender of all the territory above described, now in the occupancy of Spain, as a condition to the commencement of any negotiation for the adjustment of differences. When we consider how long your Government has maintained what is deemed an unjust possession; more especially when we recollect that the injuries before received are still unredressed, and that others have been since rendered, there can be, it is presumed, but one opinion as to the great mod-

eration of this Government in acquiescing in it. But why restore this province to Spain, if it is the intention of your Government to make the title to it, in connexion with other differences, a subject of amicable negotiation and arrangement? May not such a negotiation be entered into as well while it is in the occupancy of the United States as if it were in that of Spain?

You demand, next, that Mr. Toledo, and others whom you mention, charged with promoting revolt in the Spanish provinces, and exciting citizens of the United States to join in it, shall be arrested and tried, their troops disarmed and dispersed.

You intimate that troops are levying in Kentucky, Tennessee, Louisiana, and Georgia, for the invasion of the Spanish provinces, of whom one thousand are from Kentucky, and three hundred from Tennessee, to be commanded by American citizens; but you do not state at what points these men are collected, or by whom commanded; and as to the forces said to be raised in Louisiana and Georgia, your communication is still more indefinite. The information recently obtained by this Department from persons of high consideration is of a very different character. It is stated that no men are collected, nor is there evidence of an attempt or design to collect any in Kentucky, Tennessee, or Georgia, for the purpose stated; and that the force said to be assembled under Mr. Toledo is very inconsiderable, and composed principally of Spaniards and Frenchmen. If any portion of it consists of citizens of the United States, their conduct is unauthorized and illegal. This force is not within the settled parts of Louisiana, but in the wilderness, between the settlements of the United States and Spain, beyond the actual operation of our laws. I have to request that you will have the goodness to state at what points in Kentucky, Tennessee, Georgia, and Louisiana, any force is collected, the number in each instance, and by whom commanded. If such force is collected, or collecting, within the United States, for the purpose suggested, or other illegal purpose, it will be dispersed, and the parties prosecuted according to law.

This Government is under no obligation, nor has it the power, by any law or treaty, to surrender any inhabitant of Spain or the Spanish provinces on the demand of the Government of Spain; nor is any such inhabitant punishable by the laws of the United States for acts committed beyond their jurisdiction, the case of pirates alone excepted. This is a fundamental law of our system. It is not, however, confined to us; it is believed to be the law of all civilized nations, where not particularly varied by treaties.

In reply to your third demand—the exclusion of the flag of the revolting provinces—I have to observe that, in consequence of the unsettled state of many countries, and repeated changes of the ruling authority in each, there being at the same time several competitors, and each party bearing its appropriate flag, the President thought it proper, some time past, to give orders to the

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collectors not to make the flag of any vessel a criterion or condition of its admission into the ports of the United States. Having taken no part in the differences and convulsions which have disturbed those countries, it is consistent with the just principles, as it is with the interests, of the United States to receive the vessels of all countries into their ports, to whatever party belonging, and under whatever flag sailing, pirates excepted, requiring of them only the payment of the duties, and obedience to the laws while under their jurisdiction, without adverting to the question whether they had committed any violation of the allegiance or laws obligatory on them in the countries to which they belonged, either in assuming such flag, or in any other respect.

In the differences which have subsisted between Spain and her colonies, the United States have observed all proper respect to their friendly relations with Spain. They took no measure to indemnify themselves for losses and injuries; none to guard against the occupancy of the Spanish territory by the British forces in the late war, or to occupy the territory to which the United States considered their title good, except in the instance of West Florida; and in that instance under circumstances which made their interposition as much an act of accommodation to the Spanish authority there as of security to themselves. They have also prohibited their citizens from taking any part in the war, and the inhabitants of the colonies, and other foreigners connected with them, from recruiting men in the United States for that purpose. The proclamations which have been issued by the Governors of some of the States and Territories, at the instance of the President, and the proclamation lately issued by the President himself, are not unknown to your Government. This conduct, under such circumstances, and at such a time, is of a character too marked to be mistaken by the impartial world.

What will be the first result of the civil war which prevails between Spain and the Spanish provinces in America, is beyond the reach of human foresight. It has already existed many years, and with various success; sometimes one party prevailing, and then the other. In some of the provinces the success of the revolutionists appear to have given to their cause more stability than in others. All that your Government had a right to claim of the United States was, that they should not interfere in the contest, or promote, by any active service, the success of the revolution, admitting that they continued to overlook the injuries received from Spain, and remained at peace. This right was common to the colonists. With equal justice might they claim that we would not interfere to their disadvantage; that our ports should remain open to both parties, as they were before the commencement of the struggle; that our laws regulating commerce with foreign nations should not be changed to their injury. On these principles the United States have acted.

So much have I thought proper to state respecting the relations existing between the United States and Spain. The restoration of the diplomatic intercourse between our Governments forms an epoch which cannot fail to be important to both nations. If it does not produce a result favorable to their future friendship and good understanding, to your Government will the failure be imputable. The United States have at all times been willing to settle their differences on just principles and conditions, and they still are. Of this I informed you in my letter of the 5th of May, as I likewise did Mr. Cevallos, in a letter of the 17th of July. It will be very satisfactory to the President to find that your Government entertains now the same disposition, and has given you full power to conclude a treaty for these purposes. I have the honor to be, &c.

JAMES MONROE.

*Translation of a letter from Mr. Otis to the Secretary of State.*

PHILADELPHIA, February 22, 1816.

SIR: The letter with which you honored me on the 19th of last month, in answer to mine of the 30th of December and 2d of January, had two objects: the first to make known to me the complaints which this Government considers itself as having against Spain for a long time past; the second, to communicate the resolution of the President on the three points embraced in my notes mentioned above.

You state that the President would have wished that I should not have confined myself to bringing forward the complaints of His Majesty, but should have likewise proposed a reparation for those of the United States against Spain.

The claim for damages and injuries of which you speak would have been definitively arranged and settled if the diplomatic relations between the two Powers had not been interrupted since the memorable epoch of 1808; and this Government cannot but know that this interruption ought not to be imputed to Spain; His Majesty having made, from that time, the greatest efforts to maintain them pure and unaltered.

I have assured you verbally and in writing that His Majesty desired nothing so anxiously as to satisfy the United States for every injury they may have received from Spain, and to proceed to give this satisfaction with that generosity and high sense of honor which have at all times distinguished the Spanish character, and which have always shone conspicuously in the conduct of the Government of the King, my master; but all these points, as being anterior to the epoch I have mentioned in my notes, and since then pending between the two Cabinets, ought to be the object of a particular negotiation; and nothing is more natural or more conformable to justice and good faith than that, for facilitating this very negotiation, the state of things between the two nations should be reduced to the same footing on which it was at the epoch referred to, since, from that time, there has neither been any official corre-

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spondence between the two Governments, nor have the United States received the least injury from Spain; and if they have received any, it has been contrary to the will of His Majesty, and without his knowledge. Of this class, without doubt, is that which you mention in your note above cited; that is, that British troops and agents had been introduced into Florida, and had communication with the Indian enemies of this Republic in its last war with Great Britain. The rigorous neutrality which His Majesty has observed in the island of Cuba, East Florida, and his other possessions, ought to convince the President that the Governor of West Florida (who is, I suppose, the person to whom you allude) had like orders with the other chiefs to observe the most strict neutrality; and if he has failed in obeying them, he would have been severely chastised, had you have given to me the least intimation as to his conduct.

I will now pass to the second object of which your letter treats; that is to say, to the resolution which this Government has taken on the three points stated in my letters of the 30th December and 2d January.

The first was confined to a request that, in conformity to the principles I have stated, that is, that the affairs between the two nations should be placed on the same footing they were before the interruption of the diplomatic relations between them, His Majesty should be put in possession of that part of Florida which the troops of this Union had occupied. You were pleased to state, in reply, that this Government, believing that it had a well founded right not only to the part of West Florida which their troops had occupied, but to a greater extent of territory, comprehended in the limits of the viceroyalty of Mexico, had judged that, with the same propriety that the King, my master, occupied those possessions, the United States might retain that part of West Florida they held, until it was decided by a friendly convention to whom it belonged.

Permit me to observe that there is no parity in the cases. The country to which you allude, extending to the Rio Bravo, or del Norte, has been under the dominion of Spain, not only before and since France ceded Louisiana to His Majesty by the treaty of 1764, but from the time of the discovery and conquest of Mexico, without ever having passed by treaty to any other nation; whereas the Floridas ceased to be a French or Spanish possession, and passed into the hands of England, under the name of East and West Florida in the year 1763. They remained under the power of His Britannic Majesty, as such, until the year 1783, when, by conquest, the Spanish arms, and by solemn treaty, they passed under the dominion of His Catholic Majesty. From this you will infer that, be the interpretation which may be wished to be given to the treaty of *retrocession* of Louisiana, made between France and Spain in 1800, what it may, the two Floridas can never be directly or indirectly included in it; first, because these provinces being in the legitimate possession of England from the year 1763 to the

year 1783, France could not cede them to Spain by the treaty of 1764—nor Spain retrocede them to France, not having received them from her, unless there should have been an article on this point, in which express and direct mention was made of the cession; and, secondly, because the two contracting parties (Spain and France) have declared in the most solemn manner, the first, that she did not cede to France any part of the Floridas—the second, that she had not acquired them by the Treaty of St. Ildefonso, or of *retrocession* of 1800; nor had had the least intention to set up a claim to them. You know very well that, according to all the acknowledged principles of justice, no one can be put out of the possession of what he holds until the right of the person who claims it shall be proved and recognised; and that, by a natural consequence of this principle, Spain having been in possession of West Florida when the United States laid claim to it, it is proper she should keep it until this Republic shows a better right, which ought to be done in a friendly negotiation between the two Powers; and that it would be anticipating the negotiating to begin by taking possession of the territory, the right to which, so far as it respects the United States, ought to be the object of the negotiation itself. These are the grounds which support the first demand I made on you, in the name of His Majesty, in my letter of the 30th December; and I flatter myself that, reflecting on facts so well known, you cannot do less than consider them just.

I pass now to the second point. This is confined to asking the punishment, according to law, of those turbulent and seditious individuals who have taken up arms within the territory of this confederation, and from thence carrying desolation, destruction, and horror into the frontier provinces of the Crown of Spain; and not content with the atrocities they have heretofore committed, they are now actually engaged in recruiting troops, and preparing armaments in the bosom of this country, again to invade these provinces. I have named the ringleaders of these rebels, who have violated the neutrality and the most sacred laws of the United States, by the well-known fact of their having armed in their territory, and marched from thence, in military and hostile array, to subvert the peace and good order of the dominions of the King, my master. I have named Toledo, Bernardo Gutierrez, Doctor Robinson, and others, who perpetrated the horrible deeds at St. Antonio de Bexar; who recruited their troops in Louisiana, and even in the limits of New Orleans, and proceeded from thence, as an army, to assault the province of New Mexico; who committed there outrages never heard of even among savage tribes; and who, after being defeated, again took refuge in the territory of this Union, where they are now endeavoring to raise new forces to repeat the same excesses. Toledo, Bernardo Gutierrez, Dr. Robinson, and their followers, to this time, move about with impunity in Louisiana, and even in the city of New Orleans itself. The infraction of the

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laws of the United States, and the violation of the dignity and honor of the American people, of which they are guilty, is public and notorious, not only in this country, but in the whole world. I stated to you, in addition, on this point, that the ringleaders I had named to you were expecting considerable reinforcements from Kentucky and Tennessee, to undertake a hostile expedition against the neighboring possessions of my sovereign; and that I had advised that these reinforcements, composed of American citizens, were raised for the purpose of uniting with them.

You were pleased to state to me, in reply, on this point, that the President had determined not to take any part in the disputes which had arisen between His Catholic Majesty and the revolted provinces on this continent; and that, in conformity to this system, the Governors of different States, as well as the President himself, had issued repeated proclamations, directing that all those who set on foot, or promoted the recruiting of adventurers, with the design of invading the possessions of His Catholic Majesty, should be prosecuted according to law; that the information received at your Department, from very respectable persons, is, that the force collected by Toledo is very considerable, and composed principally of Frenchmen and Spaniards, without the territory of the United States, where their laws do not reach; that my statements on this point are not circumstantial; and that as soon as I pointed out American citizens who promoted the expeditions, collected the troops, or facilitated the supplies to which I referred, and if these collections of troops, &c., were in the territory of this Union, they should be immediately dispersed, and the persons implicated should be prosecuted according to law.

To satisfy you on this point, with that simplicity and candor which belongs to me, I will divide into two classes these seditious persons of whom I have spoken to you in my notes. I will include in the first class Toledo, Bernardo Gutierrez, and Dr. Robinson, as violators of the neutrality laws of the United States—an infraction so notorious and so evident that I should do wrong to detain you in referring to the innumerable acts which demonstrate it in an incontestable manner. It is known to you, to your Government, and to the whole country, that, with the troops they individually raised three years ago in Louisiana, they marched in military array to invade the internal provinces of the viceroyalty of Mexico; the horrible assassinations they committed, particularly those by Bernardo Gutierrez at St. Antonio de Bexar, are known. And, finally, it is known that, being defeated by the troops of the King, my master, they took refuge again in this country, and that the Government of Louisiana permitted them to remain undisturbed in the very territory whose neutrality they had violated. This single fact is, in my opinion, a sufficient reason why the law should take hold on them before they leave the jurisdiction of the United States to renew melancholy scenes. But I will give to you even new proofs that these highway

robbers have not ceased from that time to concert and to realize new projects against the tranquillity of the inhabitants of the dominions of the King, my master.

The annexed copies, marked Nos. 1, 2, and 3, of intercepted letters from Toledo, which have been officially sent to me, prove beyond doubt that Toledo had armed in New Orleans three vessels, in which he carried arms and munitions of war to give support to the insurrection in Mexico; and that he returned to that city, bringing back with him Herrera, who calls himself Minister Plenipotentiary from the revolted provinces to this Government, by asserting, in one of his said letters, that the United States only waited the arrival of the Minister of the revolutionists of Mexico to acknowledge its independence. The other ringleaders have done the same thing to deceive adventurers, both in and out of Mexico, and even citizens of the United States, seducing them by false assurances that their Government was decided to support them, and that it would proceed immediately to recognise as an independent Power that band of highway robbers and insurgents. From the extract of a letter from a person of the greatest veracity and the best character, now forwarded to you, marked No. 4, you will observe that Toledo had deferred his expedition against the provinces of the King, my master, as I stated to you in my note of the 2d January, as the thousand men he expected from Kentucky, and the three hundred from Tennessee, could not form a junction with him in less than twenty-four days; and in Nos. 5 and 6, you will see this information confirmed under a posterior date, advising me that a number of Americans came down from the States adjacent to Louisiana to join the expedition which Toledo had concerted; and that he (Toledo) would carry with him the engineer Laford, Savary, and one Soubenet.

You will also learn that provisions and a Carthaginian flag were sent to the American brig, the Tom Bowline, from New York, at the moment of her arrival at the Balize, by a gunboat of the United States, with the object, it would seem of conveying with her the vessels which should sail from New Orleans with munitions of war for the establishment at the new port of Tampico; that they had purchased in New Orleans itself five other schooners, which they are actually arming to cruise against the Spanish commerce; and that it appears that Mr. John K. West, merchant of that place, is the agent for these vessels; and, finally, that in that city there has been a revolutionary junta, at the head of which is Toledo and Herrera, from which has issued the wicked decree mentioned in these letters—that four honorable Spaniards should be put to death for every revolutionist punished by the established laws of the monarchy of the King, my master.

As respects Doctor Robinson, it is notorious that he has been one of the most infuriated enemies of Spain, and the one who has, with the greatest eagerness, promoted the rebellion of the

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provinces of His Majesty. It was he who introduced himself into the internal provinces to seduce their inhabitants; it was he who sowed the seed of insurrection; it was he who procured intelligence in St. Antonio de Bexar for Bernardo Gutierrez, that he might possess himself of the place, and afterwards murder fourteen Spanish chiefs; and it was he who published, in these United States, proclamations, signed with his hand, inviting adventurers from all parts to form an army, pointing out the places of enlisting men, and the pay of those enlisted; and, in one word, declaring war himself, in a certain mode, against the Spanish nation, from the very bosom of this Republic, as you will find more in detail in the authenticated copy (No. 7) which accompanies this, the original of which is in my possession.

I include in the second class those individuals who, seduced by the imposture of the principal author of these hostile expeditions, have assisted, from the bosom of this Republic, the revolutionists of Mexico—some by furnishing them arms and munitions of war, others by enlisting themselves, in this country, in the army of the insurgents, which passed over to subvert all order in the provinces of the King, my master. In this number are those other persons whom I have mentioned to you in this and my former notes. The information which I gave you respecting some persons who were preparing hostile expeditions from Georgia against the possessions of the King, my master, you find established, officially, by the Governor of East Florida, in his letter (No. 8) which accompanies this; in which he advises me that John McIntosh and William Criach, who supported the last insurrection in that province, in the year 1812, are now recruiting in Georgia a considerable number of vagabonds, again to invade the territory under his command.

I flatter myself that this series of acts, so circumstantial, the information of which has been acquired through channels so respectable, will be sufficient to call the attention of the President to the necessity of cutting up by the roots these melancholy abuses, and shut the door against the continual, violent movements of these turbulent people, who, from the bosom of this Republic, make war on a friendly and neighboring Power. It has never been the intention of the King, my master, to request that the punishment of the laws should be inflicted on these disturbers of social order when their guilt is not fully proven. On the contrary, I have informed you that the object of His Majesty is not to take vengeance on these highway robbers, but to shelter his subjects from their barbarity. His Majesty has only thought proper to solicit from the rectitude and circumspection of this Government what might prevent the crimes which are meditated from taking effect, as otherwise it might be too late to prevent them, as the offenders will be beyond the territory of a friend, and at a distance from the arm of the law. Good order requires not only that the offences already committed should be punished, but that those which are contem-

plated should be prevented; and this is the case of the individuals I have comprehended in the second class. The personal knowledge I have of the rectitude of the President inspires me with a confidence that he will view the acts I have just stated as I do, and proceeding, in this particular case, with that integrity and humanity which is the most glorious distinction of the American character, he will be pleased to adopt those measures which he may believe most analogous to the system which, you tell me, this Government has adopted, not to mix in these dissensions, and not to permit the citizens of this Republic to take part in them, nor to permit its territory to be a shelter to foreigners who try to make war on a friendly Power.

To the third point in my notes, intended to solicit from your Government that vessels from the insurgent or revolted provinces of Spanish America should not be admitted into the ports of the Republic, as well because none of those provinces are recognised by any Power in the world, as, because the obligations of friendship and good neighborhood demand that we should not in any way contribute to protect provinces or subjects who have revolted, you have been pleased to make known to me that the President, observing the change of government which had taken place among the revolutionists in Spanish America, had adopted the measure of ordering the collectors of the customs to admit every description of vessel, without regard to her character or flag, provided she paid the duties and observed the laws of the country during the time she was in port.

With due respect for the measures adopted by the chief of this confederation, I cannot do less than state to you that the changes of government which have taken place among the revolutionists of Spanish America do not appear to me to afford a sufficient motive for altering the friendly conduct towards a Power with whom one is in peace and harmony. You cannot but know that this measure places these factionists not only on a footing of equality with the Spanish nation, but gives them advantages over all independent Powers, since, according to the laws of neutrality, the United States would not permit any independent nation to arm its vessels in their ports, nor to sell prizes in them, as is permitted to these revolutionists.

By the two acts of Congress, one of the 28th of February, 1806, and the other of the 24th of the same month in 1807, all commerce with the rebels of St. Domingo was prohibited at the request of France. As the treaties subsisting between Spain and the United States place Spain on the footing of the most favored nations, His Majesty considers himself entitled to expect that this Republic will now adopt in his favor a like measure during the disturbances in Spanish America, or for such other period as it may be considered proper to designate. Such is the spirit in which I have made the three requests to your Government, stated in my former notes. I hope that the present observations will merit a favora-

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ble reception from the rectitude and wisdom of the President and of yourself. I have given an account to my Government of all these particulars, sending it a copy of my notes, and of the answer I had the honor to receive from you. And in the meantime I ought to reiterate to you the most positive assurances of the disposition of the King, my master, to maintain and to strengthen the ties of friendship and good understanding with these States.

At the conclusion of your note which I am now answering, you are pleased to make known to me that this Government is anxious to terminate, by means of a friendly negotiation with the King, my master, all pending differences, and that it will be very satisfactory to the President to know that I am vested with powers to that effect. I have not lost any time in communicating to my Sovereign this desire of the President, and I will have the satisfaction of announcing to you what His Majesty may determine on this point; nevertheless, I ought to state to you, that although it would be highly flattering to me to treat with you, as your penetration and rectitude would facilitate the arrangement of these affairs, yet it appears to me that, as Mr. Erving has not yet sailed from the United States, the business would be expedited if the President would give him power and instructions to terminate the negotiations at Madrid. This arrangement cannot present great difficulties. The respective rights of each Power being once settled by common agreement, a friendly understanding being had on each point in discussion, and it being determined what are the reciprocal obligations of Spain and the United States, they would be still further obviated if you would have the goodness to inform me, frankly and plainly, as I requested in a former letter, what are the pretensions of right which the United States have against Spain, and what are those for their own convenience, which they desire to realize for an equivalent which may be advantageous to the two nations, to the end that, with the knowledge I have acquired of the mutual interests of both, I may recommend to the attention of His Majesty these particular points.

I renew to you my respects, and pray God to preserve your life many years.

LUIS DE ONIS.

*Copy of a letter from the Secretary of State to the  
Chevalier De Onis.*

DEPARTMENT OF STATE, June 10, 1816.

SIR: I had the honor to receive your letter of February 22d soon after its date, and to communicate it to the President.

Anxious as this Government has been to terminate all differences with His Catholic Majesty, on conditions of reciprocal advantage, and with equal honor to both parties, it would have been very satisfactory to the President to have found that you had been vested with full power to negotiate and conclude a treaty for these purposes.

I have the honor now to state that Mr. Erving, Minister Plenipotentiary of the United States to

His Catholic Majesty, has been instructed on these important subjects, and that, as the views of this Government are just and liberal, a strong hope is entertained that your Government, bringing to the negotiation a similar disposition, will agree to such an arrangement as will be mutually advantageous and satisfactory to both nations.

However agreeable it might be to leave these high concerns in this train, without further discussion here, it is, nevertheless, proper to notice some passages in your letter of February 22d, notwithstanding the clear light in which the subjects to which they relate have been placed in former communications. You intimate, in your late letter of May 30th, a desire to receive a particular answer to that of February 22d; and it is just that you should see that my silence was imputable to the cause only which is above suggested.

You state that, as that portion of Louisiana which lies eastward of the Mississippi and the Iberville, had been ceded by France to Great Britain in 1763, and by Great Britain to Spain in 1783, it could not be comprised in the cession of Spain to France in 1800, nor of the latter to the United States in 1803; and you draw this conclusion from the supposed import of the term "retrocession" used in the two latter treaties; which, you say, applies to that portion only which Spain had received from France. My interpretation of these treaties, taking into view so much thereof as relates to this subject, is very different. As to the term "retrocession," it is evident that it was not the intention of the parties that it should have any effect whatever on the extent of the territory ceded. The import of this term is too vague, and the term itself was used in a manner too casual to admit such an inference, even had there been nothing else in the treaty between Spain and France of 1800, to show that the construction you contend for is altogether inconsistent with the manifest intention of the parties. The import of this term would, in my opinion, be satisfied, if the whole province had passed in the first instance from France to Great Britain, and been conveyed afterwards by Great Britain to Spain, and by Spain back again to France. In regard to France this last conveyance would have been a "retrocession," as, by it, the territory would have been ceded back to her. It was very natural, therefore, that this term should be used, being applicable, in the most limited sense in which it can be taken, to at least nineteen-twentieths of the province, and, in a qualified sense, to the whole.

Had it been intended to exempt any portion of the province in the possession of Spain from the operation of the Treaty of St. Ildefonso, it would have been easy to have done it, and in a manner to preclude all doubt of the intention of the parties. It might, for example, have been stated that Spain ceded back to France such part of the province as France had ceded to Spain. A stipulation to this effect would have been concise, simple, and very perspicuous; it would have rendered useless and unnecessary the other provisions of



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the article in regard to the point in discussion, and for any purpose whatever the first of these provisions; or they might have defined the extent of the cession by a natural boundary, which would have been equally distinct and satisfactory. Had Spain ceded to France all that portion of Louisiana which lies westward of the Mississippi, the Iberville, and the Lakes Maurepas and Pontchartrain, no controversy could ever have arisen between France and Spain respecting the eastern limits, as to what Spain had ceded in that quarter, and what she had retained; nor could there have been one between the United States and Spain. By declining to define the boundaries of Louisiana, eastward, in some one of these obvious and perspicuous modes, it is just to conclude that it was intentional; that there was an object in it; and what that object was is sufficiently apparent from a fair construction of the provisions of the article already noticed.

By the Treaty of St. Ildefonso, in 1800, the province of Louisiana is ceded to France by Spain, "with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States." And by the treaty of 1803, between the United States and France, this article of the treaty between France and Spain is inserted verbatim, by which the United States are placed precisely on the same ground on which France herself stood.

If we recur to the several provisions, we shall find that each has a distinct object, for which it would not have been necessary to provide, especially in that mode, if it had been the intention of the parties that no portion of West Florida in question should have been exempted from the cession. By stipulating first that the province was ceded "with the same extent that it now has in the hands of Spain," direct reference was made to that portion of West Florida lying between the Mississippi, the Iberville, the Lakes Maurepas and Pontchartrain, and the Perdido. This provision cannot be construed as alluding to any other part of the province, and its sole effect was intended to be to include it in the cession to France. The second provision is equally explicit, "that it had when France possessed it." It is known that France had held the province to that extent before the treaties of 1763, by which she had ceded it to Spain and Great Britain; and by this stipulation it was ceded back to her in the same extent, so far as Spain could do it. The third provision has an object equally distinct, and is the more important, because, by giving it its intended effect, the construction given to the others is fully confirmed—"such as it should be after the treaties subsequently entered into between Spain and other States." By the treaty between the United States and Spain, in 1795, the boundaries, as established between the United States and Great Britain in 1783, and the free navigation of the Mississippi are confirmed, with the addition of the right of deposit at New Orleans. This provision applies to this treaty, and

likewise to the treaty of 1783 between Great Britain and Spain, by which West Florida was ceded to the latter, whereby she was enabled to restore it, in the extent contended for, to France. In regard to its operation on the treaty of 1795, between the United States and Spain, it was a provision which the United States had a right to expect from the good faith of Spain.

This view of the subject, which was in substance taken by the Ministers of the United States in 1805, in a negotiation with your Government at Aranjuez, appears to me, as it then did, to be conclusive. You urge, however, against it, that the French Government had stated that it was not its intention to cede to the United States that portion of Louisiana which France had ceded to Great Britain by the treaty of 1763. The same declaration was made to the Ministers of the United States at Aranjuez, in 1805, for the same purpose that it is now repeated. A just regard to the rights of the United States, founded on the cession which France had made to them, with a thorough knowledge of all the circumstances attending the transaction, combined with a due respect to the Government of France, dictated the answer. Your Government was informed that the American Envoys had proposed to the French Government, in the negotiation which terminated in the cession of Louisiana by France to the United States, in 1803, that its boundaries should be defined by the treaty; to which the French Government did not accede, preferring to insert in it an extract from the Treaty of St. Ildefonso, by which the province had been ceded by Spain to France, with intention to place the United States, in regard to Spain, on the same ground precisely that France held herself under the Treaty of St. Ildefonso, unprejudiced by any opinion of her own. Nothing had occurred in the negotiation with France to excite a doubt that the Perdido was the eastern boundary of Louisiana. It had been the boundary of the province when held by France, before the treaties of 1763, and it was made so again by the Treaty of St. Ildefonso, which restored it to her. Such was the construction which the American Ministers gave to that treaty, who were engaged in the negotiation with France; and such their representation of it to their Government, after the treaty with France was concluded. It merits particular attention that when your Government was requested to cede to the United States such territory as they were desirous of obtaining prior to their acquisition of Louisiana, it replied to their Minister at Madrid, by a letter of May 3, 1803, "that, by the retrocession made to France of Louisiana, that Power regained the province with the limits it had, saving the rights acquired by other Powers; and that the United States could address themselves to the French Government to negotiate the acquisition of territories which might suit their interest." With the subject thus presented before the Government of the United States, the fair construction of the article of the Treaty of St. Ildefonso, maintained by the American Ministers in their official communication accompa-

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nying the treaty, sanctioned, as it evidently was, by the letter of your Minister of State, the Treaty of Paris of 1803 was ratified. It could not be expected that the United States would appeal, under these circumstances, to France, for information as to the extent of the acquisition which they had made, or be governed by any opinion which her Government might express, in that stage, respecting it.

With respect to the western boundary of Louisiana, I have to remark that this Government has never doubted, since the treaty of 1803, that it extended to the Rio Bravo. Satisfied I am, if the claims of the two nations were submitted to an impartial tribunal, who, observing the principles applicable to the case, and tracing facts, as to discovery and settlement, on either side, that such would be its decision. The discovery of the Mississippi as low down as the Arkansas, in 1673, and to its mouth, in 1680, and the establishment of settlements on that river, and on the bay of St. Bernard, on the western side of the Colorado, in 1685, under the authority of France, when the nearest settlement of Spain was in the province of Panuco, are facts which place the claim of the United States on ground not to be shaken. It is known that nothing occurred afterwards on the part of France to weaken this claim. The difference which afterwards took place between France and Spain respecting Spanish encroachments there, and the war which ensued, to which they contributed, tend to confirm it.

I have thought it proper to make these remarks in reply to your letter of February 22d, respecting the eastern and western boundary of Louisiana. The subject having been fully treated in several notes to your Government in 1805, and particularly in those of March 8th and April 20th of that year, I beg to refer you to them for a further view of the sentiments of this Government on the subject.

In adverting to the parts of your letter which relate to the revolted provinces of Spain in America, and the aid which you state the revolutionary party have derived from the United States, I cannot avoid expressing equally my surprise and regret. I stated in my letter to you of January 19th, that no aid had ever been afforded them, either in men, money, or supplies of any kind, by the Government, not presuming that the gratuitous supply of provisions to the unfortunate people of Caraccas, in consequence of the calamity with which they were visited, would be viewed in that light, and that aid to them from our citizens, inconsistent with the laws of the United States, and with the law of nations, had been prohibited, and that the prohibition had been enforced with care and attention. You stated in your letter of January 2d, that forces were collecting in different parts of our western and southern country, particularly in Kentucky, Tennessee, and Louisiana, for the purpose of invading the Spanish provinces. I stated to you, in reply, that I knew of no such collection of troops in any quarter, and that, from information, derived from the highest authorities, I was satisfied

that none such had been made. I requested you to state at what points these troops were collected, and who were the commanders. You have sent me, in reply, extracts of letters from persons whose names are withheld, which establish none of the facts alleged as to the raising of troops in the United States, but recite only vague rumors to that effect. I have the honor to transmit to you a copy of a letter on this subject, from Mr. Dick, the attorney of the United States for the district of Louisiana, by which you will see how attentive the public authorities there have been to the execution of the laws of the United States, and to the orders of the Government, and how little they have deserved the charges made against them.

As I cannot doubt that you have taken erroneous impressions from the misrepresentation of partial or misinformed individuals, and that you have communicated the same to your Government, I rely on your candor to adopt such measures as may appear best calculated to place the whole subject before it in a true light. It is important that the effort which the President is now making to adjust our differences with Spain should have the desired result; and it is presumable that a correct knowledge of the conduct of the United States, in these circumstances, would promote it.

I have the honor to be, &c.

JAMES MONROE.

*Copy of a letter from Mr. Dick, Attorney of the United States for the district of Louisiana, to Mr. Monroe, enclosed to Mr. Onis in the Secretary of State's letter of June 10, 1816.*

NEW ORLEANS, March 1, 1816.

SIR: I have just had an opportunity of perusing the letters of the Chevalier de Onis, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty, addressed to you under dates of the 30th of December and the 2d of January. As these letters dwell largely upon transactions affecting the neutrality of the United States, which are said to have occurred, and to be still occurring here, and as they charge the public authorities of this city with giving, in the face of the President's proclamation of the 1st of September last, protection and support to the enemies of His Catholic Majesty, I think it not improper to address you in relation to these charges.

It is affirmed by the Chevalier de Onis, "and it is," says he, "universally public and notorious, that a factious band of insurgents and incendiaries continue with impunity, in the province of Louisiana, and especially in New Orleans and Natchitoches, the uninterrupted system of raising and arming troops to light the flame of revolution in the kingdom of New Spain. All Louisiana," he continues, "has witnessed these armaments, the public enlistments, the transportation of arms, the junction of the insurgents, and their hostile and warlike march from the territory of this Republic against the possessions of a friendly and neighboring Power."

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No troops at present are, or at any former period were, openly raised, armed, or enlisted, at Natchitoches, or at New Orleans, or at any other point within the State of Louisiana. Arms have been transported from this place, by sea and otherwise, as objects of merchandise, and probably have been disposed of to some of the revolutionary governments of New Spain. It has not been supposed here that there was any law of the United States, any provision by treaty, or any principle of national law, that prohibits this species of commerce. It was considered that the purchasing and exporting, by way of merchandise, of articles termed contraband, were free alike to both belligerents; and that, if our citizens engaged in it, they would be abandoned to the penalties which the laws of war authorize.

What is said, too, about the junction of the insurgents, and their hostile and warlike march from the territory of the United States against the possessions of Spain, is unfounded. In the Summer of the year 1812, a band of adventurers, without organization, and apparently without any definite object, made an incursion into the province of Texas, as far as San Antonio, by the way of Nacogdoches. No doubt many of the persons belonging to this party passed by the way of Natchitoches, but separately, in no kind of military array, and under such circumstances as to preclude the interference of the civil or military authorities of the United States, or of the State of Louisiana.

What could be effected in this respect was done; twice in the years 1811, '12, parties of adventurers, who had assembled between the Rio Hondo and the Sabine, (the neutral territory,) were dispersed by the garrison of Natchitoches, their huts demolished, and their whole establishment broken up.

The party that marched upon San Antonio assembled to the west of the Sabine, beyond the operation of our laws, and from thence carried on their operations. So far from troops, upon this occasion, assembling at different points, forming a junction within the territories of the United States, and marching thence, I am assured, by various and most respectable authorities, that, although it was generally understood at Natchitoches that some enterprise was on foot, it was extraordinary to see two of the persons supposed to be engaged in it together. The officer commanding at that time the United States troops at Natchitoches (Major Wolstoncraft) offered his services to the civil authorities in aid of the laws, and to preserve inviolate the neutrality which they enforce.

In consequence, several individuals found with arms were arrested; they alleged that they were hunters; and there being no evidence to the contrary, or rather no proof of their being engaged in any illegal undertaking, they were, of course, discharged. So well satisfied, indeed, were the Spanish authorities of the adjoining province that neither our Government nor its agents gave succors or countenance to this expedition, that, during the time they knew it to be organizing,

they applied to the garrison at Natchitoches for an escort to bring in some specie, which was immediately granted.

Toledo, who, at the time of its defeat, commanded the party that penetrated to San Antonio, came to this city in the Autumn of 1814, when he was immediately arrested, and recognized to answer, at the succeeding term of the federal court, to a charge of setting on foot, within the territory of the United States, a military expedition or enterprise, to be carried on from thence against the territories or dominions of the King of Spain; six months having passed, and no testimony whatever appearing against him, his recognizance was delivered up.

After the discomfiture of the party under Toledo, no enterprise destined to aid the revolutionists of New Spain appears to have been set on foot from the vicinity of the United States, until late in the Summer of last year, when it was rumored that a party, under a person of the name of Perry, was forming for that purpose somewhere on the western coast of Louisiana. Upon the first intimation that this enterprise was meditated, steps were taken here to frustrate it. Nothing occurred to justify prosecutions or arrests; a large quantity of arms, however, supposed to be intended for this party, were seized on the river, and detained at the custom-house for several months; and Commodore Patterson, commanding naval officer on this station, instructed the officers under his command, cruising in the neighborhood of the suspected place of rendezvous, (Belleisle, at the mouth of Bayou Teche,) to ascertain the truth of the rumors in circulation, and, if verified, to use the force under their respective commands in dispersing the persons assembled, and in frustrating their illegal intentions. In obedience to these orders, the coast, as far as the Sabine, was examined, and no persons discovered. It is now ascertained that Perry, Humbert, and their followers, inconsiderable in number, passed separately through Atakapas, and assembled about two leagues to the west of the Sabine. Thence they embarked for some place on the coast of Mexico, were wrecked, dispersed, and their plans, whatever they were totally defeated.

I have in the foregoing detail, sir, given, partly from information entitled to perfect confidence, and partly from my own knowledge, a brief and hurried outline of two fruitless attempts of a handful of restless and uninfluential individuals, stimulated by the desire of aiding the cause of Mexican independence, or that of bettering their own fortunes. These are the only military enterprises\* against the dominions of the Spanish Crown that have drawn any portion of their aid or support from Louisiana: in both, the mass of adventurers was composed of Spaniards, Frenchmen, and Italians. I need not say that these enterprises, whether in aid of the revolutionists or merely predatory, were not only feeble and insignificant, but that they were formed under circumstances which forbid a surmise of their being sanctioned or connived at. Every man acquainted with the state of public feeling throughout the southern

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and western sections of the United States knows that had our Government but manifested the slightest disposition to sanction enterprises in aid of the revolutionists of New Spain, the condition of these provinces would not at this day be doubtful.

It is said that troops have been recently enlisted, and that expeditions have been preparing, or are prepared, in this city to invade the dominions of Spain. The enlisting of men and the preparing of enterprises, or the means for enterprises, of the kind spoken of, cannot be accomplished without means, or be carried on in the midst of a populous city in solitude and silence. Yet it is known, in the first place, that neither Mr. Toledo nor Mr. Herrera had or have pecuniary means for such purposes; and, in the second, so far as negative proof can go, or so far as the absence of one thing implies another, it is most certain that no enlistments have taken place, and that no expeditions, or the means of expeditions, have been prepared or are preparing here.

A regard to truth makes it necessary to say that what is alleged respecting the arming and fitting out of vessels within the waters of Louisiana, to be employed in the service of the revolutionary governments against the subjects or property of the King of Spain, is unfounded. At no period since the commencement of the struggle between the Spanish colonies and the mother country have vessels, to be employed in the service of the colonies, been permitted to fit out and arm, or to augment their force at New Orleans, or elsewhere within the State of Louisiana.

On the contrary, it is notorious that to no one point of duty have the civil and military authorities of the United States directed more strenuously, or, it is believed, more successfully, their attention, than to the discovering and suppression of all attempts to violate the laws in these respects. Attempts to violate them by fitting out and arming, and by augmenting the force of vessels, have no doubt been frequent, but certainly in no instance successful, except where conducted under circumstances of concealment that eluded discovery and almost suspicion, or where carried on at some remote point of the coast beyond the reach of detection or discovery. In every instance where it was known that these illegal acts were attempting, or where it was afterwards discovered that they had been committed, the persons engaged, as far as they were known, have been prosecuted, while the vessels fitted out, or attempted to be fitted out, have been seized and libelled, under the act of the 5th of June, 1794; and when captures have been made by vessels thus fitted out and armed, or in which their force was augmented or increased within our waters, where the property taken was brought within our jurisdiction, or even found upon the high seas by our cruisers, and brought in, it has been restored to the original Spanish owners, and, in some instances, damages awarded against the captors.

An enumeration of the cases in which individuals have been prosecuted for infringing, or attempting to infringe, our neutrality, in aid of

the governments of New Spain, and in which vessels have been seized and libelled, under the act of the 5th of June, 1794, together with a list of the vessels and property restored to the original Spanish owners, (confining the whole to the operations of the year commencing March, 1815, and ending February, 1816,) will show more conclusively, perhaps, than anything else can, how totally without foundation are the complaints of Spain on this head.

*The names of individuals presented in the district court of the United States for the Louisiana district, during the year 1815, for violating, or attempting to violate, the neutrality of the United States, in aid of the Governments of the United Provinces of New Granada and of the United Provinces of Mexico.*

José Alvarez de Toledo,	Romain Very,
Julius Cæsar Amazoni,	Pierre Sæmeson,
Vincent Gambie,	Bernard Bourdin.
John Robinson,	

*List of vessels libelled for illegal outfits, in aid of the same Governments, during the same period.*

Brig Flora Americana, restored.  
Schooner Presidente, condemned.  
Schooner Petit Milan, condemned.  
Schooner General Bolivar, discontinued.  
Schooner Eugenia, alias Indiana, condemned.  
Schooner Two Brothers, restored.

*Enumeration of vessels and property brought within the Louisiana district, captured under the flags and by the authority of the Governments of New Granada and of Mexico, libelled on the part of the original Spanish owners, and restored upon the ground that the capturing vessels had been fitted out and armed, or had their force augmented, within the waters of the United States.*

1. Schooner Cometa, restored April, 1815.
2. Schooner Dorada, proceeds restored 16th May, 1815, \$3,050.
3. Schooner Amiable Maria, proceeds restored 16th May, 1815, \$3,850.
4. Schooner Experimento, restored 3d August.
5. The polacre brig De Regia and cargo, proceeds restored 18th December, 1815, \$19,209 50.
- Schooner Alerta and cargo, being the proceeds of the capture of about eighteen small vessels, restored 18th December, 1815, \$62,150 05.
- Damages awarded to the original owners against the captors in the two foregoing cases, \$55,272 97.
7. The cargo of the schooner Petit Milan, restored February, 1816, \$2,444 31.
8. The cargo of the Schooner Presidente, February 1, 1816, \$10,931 15.
9. Schooner Sankita and cargo, restored February 1, 1816, \$37,962 94.

The preceding account of Spanish property restored to the original proprietors, after being in possession of the enemies of Spain, is defective, inasmuch as it does not comprehend the whole of the cases of restoration that have taken place within the period to which the detail is confined; the very hasty manner in which I have made this enumeration did not admit of a more accurate statement. The principal cases, however, are

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included in it. In several other cases, where the property was claimed for the original Spanish owners, the claims were dismissed, because it did not appear that any violation of our neutrality had taken place.

The capturing vessels were not armed, nor their force augmented within our jurisdiction; nor had the captures been made within a marine league of our shore. The principles that guided the decisions of the court, as well in restoring the property captured, where our neutral means had been used, as in declining all interference where that was not the case, manifest, I think, a disposition to, and an exercise of, the most rigid neutrality between the parties.

I have the honor to be, &c.

JOHN DICK.

*From the Secretary of State to George W. Erving.*

DEPARTMENT OF STATE,

March 11, 1816.

SIR: You will set out in discharge of the duties of your mission to Spain as soon after the receipt of this letter as circumstances will permit. Our relations with that country are, from many causes, becoming daily more and more interesting. They will require your assiduous and zealous attention as soon as you are recognised by the Spanish Government.

The restoration of the diplomatic intercourse between the two countries, long interrupted by causes well known to you, presents a favorable opportunity for the settlement of every difference with that Power. The President has already manifested his sincere desire to take advantage of it for that purpose, and hopes that the Spanish Government cherishes a similar disposition.

The primary causes of difference proceeded from spoliations on their commerce, for which Spain is held responsible, the justice of which she admitted by a convention; and from the refusal of the Spanish Government to settle on just principles the boundaries of Louisiana, and to compensate, on like principles, for the injuries arising from the suppression of the deposite at New Orleans in the breach of the treaty of 1795. The grounds of these differences have been so often discussed, and the justice of our claims so completely established in the instructions heretofore given, and in communications with the Spanish Government, that it is thought unnecessary to enter into them in this letter. Other injuries have likewise been since received from Spain, particularly in the late war with Great Britain, to which it may be proper for you to advert. I shall transmit to you, herewith, such papers relating to our claims in every instance, as will place their merits in a just light.

In a conversation with Mr. Onis, shortly after the late correspondence with him, he intimated that his Government was sincerely desirous of settling these differences, and that it might be willing to cede its claim to territory on the eastern side of the Mississippi, in satisfaction of claims, and in exchange for territory on the west-

ern side. He expressed also a desire that the negotiation might take place at Madrid, rather than in this city. It was expected that he had been already furnished with full powers to negotiate such a treaty, and it would be more agreeable to conclude it here if he had such powers, or might soon procure them, provided there was any ground to hope an early termination of it. But, from the experience we have already had, it may be fairly apprehended that a negotiation here would lead to very extraordinary delays, which it is wished to avoid.

The President will soon decide on the whole subject; after which, you shall be duly instructed of the course to be pursued, and of the measures to be taken. These instructions shall be forwarded to you at Madrid by Mr. Henry B. Smith.

*Extract of a letter from the Secretary of State to George W. Erving.*

DEPARTMENT OF STATE, May 30, 1816.

SIR: To enable you to make the experiment on which the President has again decided to settle our differences with Spain, I enclose a letter of instruction, which, being shown to the Spanish Government, will be your authority for the purpose.

As the justice of the claims of the United States in every instance has been fully established in former discussions, the documents relating to which are in your possession, I shall not enter into the subject in that view. It can hardly be presumed that the Spanish Government, after what has passed, will be desirous of resuming this discussion. Should such a disposition be manifested, those documents will enable you to place the subject in a proper light. I shall proceed, therefore, to state the conditions on which the settlement may now be made.

The United States complained, in 1805, of injuries from Spain—

- 1st. By spoliations on their commerce;
- 2d. By the suppression of the deposite at New Orleans; and,
- 3d. By the refusal of the Spanish Government to settle the boundaries of Louisiana on just principles.

Of spoliations there were two classes: the first consisted of seizures made of American vessels by Spanish cruisers; the second, of seizures of other of our vessels by French cruisers, who carried them into Spanish ports, where they were condemned by French Consuls. For the first class, provision was made by a convention between the two Governments at Madrid, bearing date on the 11th of August, 1802, which the Spanish Government afterwards refused to ratify. For the second, no provision was ever made, though the claim was specially reserved in that convention. The suppression of the deposite at New Orleans was in direct violation of an article of the treaty of 1795. By the cession of Louisiana the United States claim (and, as they think, have proved by a clear title) all the territory lying between the Perdido, on the eastern side of

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the Mississippi, to the Rio Bravo, on the western. They well know that France would have claimed to the same extent had she not made the cession; though, as the French Government declined defining the boundaries by the treaty, as was desired, no appeal was made to it by this Government, or thought proper afterwards respecting them.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

MADRID, August 29, 1816.

Mr. Henry B. Smith arrived at Cadiz on the 26th of July, and at Madrid on the 10th instant; by him I received your letters of May 30 and 31, the new cipher, the special power to negotiate, and the other papers therein referred to. It was after duly deliberating on those and the several instructions which had preceded them, that I formed my first note to Mr. Cevallos; this was sent to him on the 26th instant, a copy of it (No. 6) is herewith submitted.

No. 6.

*Mr. Erving to Mr. Cevallos.*

MADRID, August 26, 1816.

SIR: The President is sincerely desirous of establishing the relations of amity between the United States and Spain on a solid basis, and that every obstacle to a permanent good understanding between the two countries should be removed by arrangements honorable and advantageous to both; he does not doubt of finding corresponding dispositions on the part of His Catholic Majesty, therefore has readily acceded to the particular wishes of His Majesty by receiving Mr. Onis, and, in the same friendly confidence, has ordered me to repair to this Court.

I am specially instructed to discuss and to settle with your excellency all the ancient causes of misunderstanding, as well as the questions growing out of recent occurrences, which are of a character unfavorable to the object in view. It is desirable that no matter of future contention or jealousy should remain to put at hazard or to interrupt the good intelligence which the United States are always disposed to maintain with Spain, and to all the advantages of which His Majesty's Government cannot but be wholly sensible.

In transactions where the parties enter with such dispositions and such motives to accord, a frank exposition of all the grounds of complaint is at once the most just and the most judicious course; for to suppress or to smother any of them in condescension to temporary considerations, is but to leave the seeds of future discord, and to substitute palliatives and expedients for satisfactory and solid arrangements.

It is proper, therefore, that I should state distinctly all the points on which the United States seek for redress and indemnity, commencing with those claims which have heretofore been the subject of unsuccessful negotiation. I am well persuaded that the whole can now be settled in a

manner satisfactory to both parties, and without reviving whatever animosities they may have originally given rise to.

In the present exposition I may also forbear to enter into the details of the principal subjects to which it refers; because these have, for the most part, in some form or other, been already brought to the view of the Spanish Government; and because your excellency, in particular, has the most perfect knowledge of them.

The first point to which I must call your attention is, the claim of my Government for compensation to its citizens on account of the ravages committed on their commerce previous to the year 1802; this is an object which the United States never have, and never can, lose sight of; indeed, the justice of the claim has already been admitted by the Spanish Government in a convention negotiated and signed by your excellency on the 11th August, 1802. The United States still expect that this claim shall be adjusted upon principles of law and equity, which cannot be called into question by His Majesty's Government.

In the same manner, the United States expect that compensation will be made for all the injuries done to their commerce, under the authority of the Spanish Government, or within its jurisdiction, previous to the date of said convention, not embraced by it, and the claim for which was specially reserved by that convention, as well as for all similar injuries subsequent to its date.

The suppression of the deposite at New Orleans in the year 1802, violating the treaty of 1795, forms another claim of great importance.

Causes of misunderstanding, of a later date, and of another character, accumulated principally during the war between the United States and Great Britain. These were of so unfriendly, and, in many cases, of so violent a nature, as to threaten an immediate and serious rupture between the United States and Spain; but, happily, the pacific policy which has uniformly characterized the conduct of the United States towards Spain was still upheld by considerations highly honorable to the moral character of the American Government—considerations growing out of the then unhappy domestic state of the Peninsula, and the miseries and disorders to which a most unjust foreign invasion had made it a prey; the American Government always trusting that Spain, on the re-establishment of its national independence, and the restoration of regular government and tranquillity, would readily attend to the just demands of the United States, and cheerfully embrace their conciliatory proposals.

It will suffice for the present that I mention but succinctly the principal matters above adverted to. These are—

1st. The encouragement which was given by the Spanish authorities in East Florida to the Indian tribes in Georgia, and generally on the southern frontier, to make war on the United States.

2d. The aid given to them in that war.

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3d. The aid afforded to Great Britain, by permitting supplies to be sent through East Florida to the Indian tribes; and afterwards by allowing her to establish a place of arms in that province, for the purpose of encouraging and supporting the Indians in their savage war.

These acts were evident and very important violations of the neutrality which Spain was bound to observe between the belligerents.

Her duties as a neutral Power were altogether lost sight of when the United States frigate "Essex" was attacked in the bay of Valparaiso.

The seizure of American property and the imprisonment of American citizens, in various modes and under various pretexts, both in the Peninsula and in the colonies, afforded unequivocal indications of an unfriendly temper. Several of these acts may hereafter require special representations on my part; my present object is to bring them generally to your view. The President relies upon the just sense which His Majesty must entertain of the important crisis in our affairs which such events are of a nature to produce for the adoption of a policy congenial to the interests of both countries; and the President persuades himself that the same just and amicable disposition will be prompt in affording the satisfaction required for the injuries complained of, and that thus a state of lasting peace and friendly intercourse may be secured between two countries whose relative situations and interests render that state so peculiarly desirable.

Finally, the questions respecting boundaries, which have heretofore been supposed to offer some obstacles to a settlement of other differences, the American Government considers as susceptible of amicable adjustment; and I am instructed to treat with your excellency on that subject. I have the honor to be, &c.

G. W. ERVING.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

SEPTEMBER 22, 1816.

I wrote to Mr. Cevallos, on the 13th instant, a note (of which the enclosed paper No. 2 is a copy) inviting his attention to my note of August 26th; and, on the 14th instant, I again waited on that Minister, for the purpose of again urging him to reply to my said note. He made the same excuses for his delay as he had before made.

On the 15th instant I received from Mr. Cevallos a note of the same date; a copy of it (No. 3) is herewith enclosed; I also submit to you (No. 4) a copy of my reply, of the 19th instant, to that note.

You will observe, sir, that, under the circumstances of the sudden and unexpected determination of the King, as communicated by Mr. Cevallos, I thought it indispensably necessary (and my reasons will, I presume, be obvious to you) that my answer should include all that passed of importance in my intermediate conference with that Minister. I sought the interview for the

purpose of obtaining promptly explanations which, in the ordinary course of correspondence, might not have been given for months; of ascertaining, as nearly as might be, the real views of this Government in the measure adopted, and, as far as possible, of fixing Mr. Cevallos in a direct and loyal course; in fine, of forcing our business on, by one mode or another, to a conclusion of some sort. Indeed, it was impossible for me to do anything more than merely acknowledge the receipt of the note, and to transmit it in course to my Government, unless I could learn whether the measure which it proposed was or was not likely to be acceptable to you; for I have not seen your note of June 10th, to which Mr. Cevallos refers; and as the words of his note, "*que el citado Don Luis estuviese autorizado para negociar*," are altogether equivocal, and may receive either a past or future construction, I did not feel confident that you had really invited Mr. Onís to send for powers. Thus, I could not but be apprehensive that the object of this Government in the measure proposed was merely to relieve itself from pressure here to gain time, and indefinitely to procrastinate the settlement of our differences; and this suspicion was strengthened by many collateral considerations.

You will perceive, sir, that Mr. Cevallos says, in his note, that "correspondent orders" have been sent to Mr. Onís; by which I must understand orders corresponding to the intention of the King to satisfy the President, by conforming to the desire expressed in your note to Mr. Onís, which must be understood to mean full powers; and yet, in conversation, he allowed that such powers had not been sent, and accepted of my proposal to transmit them. However, this apparent discrepancy may have been mere inadvertency; he may have intended duplicates of his powers. I resort to this supposition, because I have just now been informed, through another channel, that "full powers" have been sent to Mr. Onís. How the fact may be, you will be able to ascertain by the date of the powers. If the powers have been sent, (unless, indeed, very lately,) it is surprising that Mr. Cevallos did not earlier communicate the measure to me.

The observations which I made to Mr. Cevallos as to my own powers to negotiate, and my proposal of a special commission—these were intended rather to test his sincerity than to alter his professed plan. I said only what, under circumstances, it had been extraordinary to have omitted. My earnestness naturally resulted from the position in which I was placed by the proposed measure; but I refrained from pushing to the extent of which they were susceptible what might be considered as my own pretensions; for, independent of the doubt in which I was as to the real intention of your note to Mr. Onís, or, that out of question, of what might best suit the views of Government, my own decided opinion was that the negotiation might be carried on to much greater advantage, and brought to a conclusion much more expeditiously at Washington than here; not only because it would be in much

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abler hands than my own, but because Mr. Onís is there in a situation to see and to feel, with infinitely more force than Mr. Cevallos can in the midst of all his distractions here, the real importance, nay, absolute necessity, of a speedy adjustment of our differences. Certainly what fell from the Minister tended to strengthen that opinion; and it has been still further confirmed in a subsequent conversation. On the 21st instant, having reason to believe that he did not intend to reply to any part of my note of the 19th, I immediately called on him. I found, in fact, that the measure which he had announced to me having been definitively determined on by the King, he considered any further correspondence on the matter as altogether superfluous; indeed, that he had but the most superficial, if any, acquaintance with the contents of that note. I then read to him a copy of it; and, having urged all the reasons which induced me to wish for his answer, he finally consented to give it. I now wait for that answer.

[Referred to in the preceding.]

No. 2.

MADRID, *September, 13, 1816.*

SIR: It is my indispensable duty again to invite your excellency's attention to my note of August 26th. The importance and the urgency of the matters of which it treats will, I am persuaded, sufficiently explain my earnestness on this occasion; and I most ardently desire that the determinations of His Majesty upon it may correspond to the just expectations of the American Government, and lead to the establishment of lasting peace and harmony between the two countries.

I renew to your excellency the assurances of my very distinguishing consideration.

GEORGE W. ERVING.

His Exc'y Don PEDRO CEVALLOS,  
*First Minister of State.*

[Referred to in Mr. Erving's letter of September 22.]

No. 3.

*Copy of a letter from Mr. Cevallos to Mr. Erving.*

SEPTEMBER 15, 1816.

SIR: Having laid before the King a note under date of the 10th June last, addressed by Mr. Monroe to Don Luis de Onís, in which he manifests the desire of his Government that Mr. Onís should be authorized to negotiate with him, His Majesty has acceded to it to gratify the President, and I have given the correspondent orders to the said Onís, to the end that he may immediately enter into negotiation with Mr. Monroe, and employ all the means which are within his reach to secure a solid and durable peace, and good intelligence between the two nations. I renew, &c.

PEDRO CEVALLOS.

[Referred to in Mr. Erving's letter of September 22.]

No. 4.

*Copy of a letter from Mr. Erving to Mr. Cevallos.*

MADRID, *Sept. 19, 1816.*

SIR: By your Excellency's communication of the 15th instant, I learn that a note of Mr. Mon-

roe, Secretary of State of the United States, under date of June 10, addressed to Don Luis de Onís, in which note the desire of the American Government is expressed that the said Don Luis should be authorized to negotiate with it, having been taken into consideration by the King, His Majesty, with a view of conforming to the wishes of the President, has acceded to the desire expressed in said note, and that you have sent the correspondent orders to Don Luis, to the end that he may immediately enter into a negotiation with Mr. Monroe.

I received this, your Excellency's important communication on the day of its date, but, before finally acknowledging the receipt of it, thought proper to seek, in an interview with you, such explanations as it seemed to require; for that purpose I waited on you on Tuesday, the 17th instant. I predicated what I then said to you on the supposition that the American Government might not have expressed a particular desire to change the seat of the negotiation, but that the Secretary of State, in the note of June 10, referred to by your Excellency, had but renewed the expression of his regret that Mr. Onís should continue to urge matters of complaint on which he had not such full powers to negotiate as he was understood to be in possession of previous to his reception by the President.

As I have the competent authority of my Government to treat; am in possession of all the documents necessary to be referred to in whatever discussions may arise; as your excellency is perfectly versed in all the questions which exist between the two Governments: for these reasons, it appeared to me that an arrangement might be made here, at Madrid, more expeditiously than at Washington. I stated expressly to you that I could, in no case, be under a necessity of referring to my Government for further instructions, requesting, at the same time, to know whether it was his His Majesty's intention to place Mr. Onís in a position equally favorable to a speedy adjustment of our differences. I concluded by excusing the warmth with which I pressed the subject, assuring you that I was very far from seeking any personal gratification in this matter of high public interest, but that I looked only to the desired result; and that if this could be obtained more promptly by transferring the negotiation to Washington than by pursuing it here, I should sincerely rejoice at the transfer.

In reply to these observations, I understood your excellency to state that, owing to your being actually charged with the business of three ministries, besides the direction of the posts, and to the variety of other occupations incidental to your high employ, it was impossible for you to give the time to the affairs to be discussed which would be necessary to a satisfactory and speedy arrangement of them; that Mr. Onís was also fully acquainted with those affairs, and was in possession of all the documents relating to them; and though you could not say but that it might be necessary for that Minister to consult with his Government, yet even the loss of three months'



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time on such an occasion would not prolong the negotiations to the extent which the unavoidable delays here would carry them to.

These reasons, urged by your excellency for transferring the seat of negotiation to Washington, induced me to propose that His Majesty would appoint a special minister or a commission to treat with me. I understood your excellency to reply that, as such minister or commission would be entirely uninformed, and would have everything to learn on the matters to be discussed, and hence the continual necessity of referring to you, this mode could in nowise expedite the result.

On my asking your excellency if full powers and instructions had been already sent to Mr. Onís, I understood you to say that they had not.

I then informed you that, after replying to your communication of the 15th instant, I should prepare to send a gentleman of my legation to the United States with my despatches; and I offered his services to be at the same time bearer of your despatches to Don Luis de Onís; which offer you were pleased to accept.

If I may have made any mistake in this statement of the substance of what passed in the interview which I had the honor of having with your excellency on Tuesday, the 17th instant, I beg that your excellency will be so obliging as to correct it.

I have further to request that you will be pleased to inform me whether it is your intention to reply to my notes of the 26th August and 13th September, or whether I am to consider your communication of the 15th instant as superseding the necessity of any special reply to those notes.

I have to request also that your excellency would enable me to inform my Government whether it is His Majesty's intention to send "*full powers*" to Don Luis de Onís to treat upon *all* the matters in question between the two countries, and whether the instructions to be sent to him will embrace *all* the points adverted to in my above-mentioned note of August 26.

As soon as possible after I shall be honored with your reply to this note, I shall send a messenger to my Government; he shall wait, however, to be at the same time the bearer of your despatches to Mr. Onís.

I renew to your excellency assurances of my very distinguished consideration.

GEO. W. ERVING.

His Excellency Don PEDRO CEVALLOS,  
*First Minister of State, &c.*

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

MADRID, September 27, 1816.

You will perceive, sir, by my last communications, that there is now very little probability that I shall have occasion to use the ample documents with which I have been furnished. Whatever complaints this Government may have to make, those originating in Mr. Onís's reports will of course be sent back to him, to bring weight

into his negotiations. It is equally probable that he may be instructed to answer at Washington to whatever representations I may find it my duty to make here; for it is now perfectly evident that a principal motive with Mr. Cevallos in removing the negotiation to Washington has been to get rid altogether of the weight and trouble of it here, and of whatever belongs to, or may any how be comprised in it. I hope that this was his only motive.

I see with satisfaction that your note of June 10 to Mr. Onís does not admit of any other construction than that which I conjecturally gave to it in my conversation with Mr. Cevallos. It is very evident, too, by Mr. Onís's reply of July 3d, that he has not misunderstood you. After this, is it to be imagined that Mr. Cevallos has fallen into a misconception? Certainly not. I presume, then, sir, that you will approve of my determination not to make any attempt to alter his plan, and that you will agree with me in opinion that the only chance of accommodation with this Government is by negotiation at Washington.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

OCTOBER 8, 1816.

In my despatch No. 18 I mentioned that Mr. Cevallos, in conversation on the 21st of September, had promised to answer my note to him of September 19th. He was afterwards for several days so wholly occupied with the marriage ceremonies, that not the least attention to any other kind of business could be expected; but these terminated on the 3d instant. I wrote to him unofficially a note, of which the enclosed paper (No. 1) is a copy; and on the 5th I again waited on him to press him for the answer which he had promised. On this occasion I observed to him that since, by his note of the 15th September, he had not assigned any sufficient motives for the determination of His Majesty to transfer the negotiations to Washington, it had been incumbent on me to ascertain what they might be, and to submit them to my Government.

It was with this intent that I had sought the interview of September 17th, and had stated the substance of our conversation in my note to him of the 19th, which, with his reply, would be sufficient for my purpose; that, without explanation, the mere notification of His Majesty's determination, contained in his Excellency's note, would have a very extraordinary appearance, to say the least: my Government had sent me with powers and instructions to negotiate; I had opened the matters to be treated on, and waited several weeks for an answer, when I was told His Majesty had determined to empower Mr. Onís. Under such circumstances, must it not be concluded either that the Spanish Government by this measure sought to avoid or to delay an arrangement, or that it had some personal objection to myself? Hence the necessity of an explanation. Mr. Cevallos answered that the motives to the measure were what he had before assigned, and that I

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must not allow myself to imagine that either the King or himself had the least personal objection to me; on the contrary, it would give him (Mr. Cevallos) peculiar pleasure to settle the business with me, if it were possible for him to attend to it; finally, that since I considered it important that my note should be answered, I should have the answer forthwith.

Yesterday, the 7th, I received the note of the same date, of which the enclosed paper (No. 2) is a copy. In this you will observe, sir, that Mr. Cevallos speaks of "full powers" to Mr. Onís, and the object in sending them to be the more expeditious termination of existing questions. In conversation, Mr. Cevallos told me that the instructions to Mr. Onís would comprise all the matters mentioned in my note of August 26th, but he has not thought proper, in this last communication, to reply specially to the question put on that subject in my note of the 19th ultimo; indeed, it was impossible for him to answer that note, and say less than he has done; he seems to have written merely to get rid of importunity, by tranquilizing what he supposes to be my personal apprehensions.

My despatches Nos. 18, 19, and 20, will accompany this, as well as those of the Spanish Government for Mr. Onís, which are to be ready within a few days. Considering the peculiar importance of these communications, I have concluded to send them by Mr. Brent to the port of Bordeaux, from whence it seems to be more probable that a speedy conveyance for the United States will be found than either from Cadiz or Lisbon. Mr. Brent will proceed to the United States, if he should find a suitable vessel bound home. On account of the lateness of the season, I have thought it right to leave this point to his own discretion, instructing him however to make the voyage, (in whatever vessel,) unless he should find at Bordeaux some American going to the United States, under whose care he shall consider the despatches to be as perfectly secure as under his own.

I beg leave, on this occasion, to express to you my particular satisfaction with the services of Mr. Brent, who unites in his character all the qualities which make a man of business and a valuable public officer.

## No. 2.

*Copy of a letter from Mr. Cevallos to Mr. Erving.*

SIR: In answer to your note of the 19th of the last month, I have to say to you, that the determination of the King that a full power should be sent to Don Luis de Onís proceeds from the desire of sooner terminating the pending disputes, and that it is unconnected with any personal considerations. I renew to you, &c.

PEDRO CEVALLOS.

*Copy of a letter from the Secretary of State to the Chevalier de Onís, dated*

DEPARTMENT OF STATE, Jan. 14, 1817.

SIR: Having understood in our late conference that you would not agree to an arrangement

by which Spain should cede her claims to territory eastward of the Mississippi, unless the United States ceded their claims to all the territory westward of that river, and that even then your agreement would be restricted to a recommendation to your Government to adopt an arrangement to that effect, it is deemed unnecessary to make you any further proposition, or to prolong the negotiation on the subject of limits.

I have now to request that you will have the goodness to inform me whether you are willing to enter into a convention to provide compensation for spoliation, and for the injury resulting to the United States from the suppression of the deposite at New Orleans. I have, &c.

JAMES MONROE.

*Mr. Onís to the Secretary of State.*

JANUARY 16, 1817.

SIR: I have received your official letter of the 14th instant, in which you are pleased to make known to me that, having understood in our last conference that I would not accede to an arrangement by which Spain should cede her pretensions to the territory east of the Mississippi if the United States did not relinquish theirs to the west of that river, and that even in this case my accession would be limited to recommending to my Government the adoption of this project, it appeared to you useless to make me more propositions to prolong the negotiation on the subject of limits between the two Governments; and you only desire to know if I am disposed to sign a convention to provide compensation for the injuries occasioned to the United States by the cruisers of His Majesty in the late war, and for those which resulted to the United States from the suppression of the deposite at New Orleans.

In answer to this letter, you will permit me to observe, that in the conference referred to I had the honor to exhibit to you the full powers of my Sovereign, in which he authorizes me to negotiate, adjust, and sign a treaty or convention with the United States, in which should be arranged not only the indemnities due to the subjects and citizens of both nations for the injuries they had suffered from the last war between His Majesty and Great Britain to the present, in contravention of the law of nations and the existing treaty between the two Powers, but also to fix the respective limits to the satisfaction of both. The intention of His Majesty (and in this I believe the two Governments agree) is not confined to a partial arrangement, which might leave in existence the disagreements which have unhappily arisen between them from the effect of circumstances. His Majesty, fully convinced that no treaty or convention can be durable unless it is founded in equality and mutual convenience, has particularly directed me that, keeping in mind the reciprocal, political, and commercial interests which unite the two nations, I should so adjust the definitive arrangement with the person whom the President should authorize to that effect, that no controversy could ever again arise between them.

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I cannot conceal from you that to arrive at this end it is indispensable to begin by amicably discussing and agreeing upon the rights of each of the two Powers, and that the result of this discussion is what ought to guide us in arranging the indemnities and fixing the limits which may be just and mutually convenient to the two nations. You had the goodness to say to me that this method had been adopted by you and Mr. Cevallos, and that, if we renewed it, precious time would be lost without our being able to agree. In such a dilemma, and anxious to contribute on my part to accelerate the negotiation, I took the liberty to propose to you the only other method which appeared to me to exist, besides the one which I have just mentioned, to arrange these differences, which is this: that the two Powers, throwing off all idea of aggrandizement, and sacrificing resentments and complaints of little importance, should proceed with good faith to fix limits between them which should be mutually convenient, which should not be liable to controversy, or be unknown to or violated by the respective subjects of each.

You did me the honor to applaud a proposition so frank and liberal, as dictated by equity and good faith, and made known to me with the same frankness that the United States desired to unite to its dominions all the territories which belong to Spain to the east of the Mississippi; and that for them they would offer to Spain those which were between the Rio del Norte and the Colorado. But as not only these lands, but all those which lie between the Colorado and Cape North, drawing a line by the river Mermento or Mermentao towards the Presidio of Adais, and from thence by the Arroyo Onda towards Natchitoches, are a part of the province of Texas, belonging to, and in the uninterrupted possession of, His Majesty, without there having been in relation thereto any dispute between France and Spain, (that dispute being solely as to Natchitoches, which fort the French raised unjustly in the territory of His Catholic Majesty,) it results that this proposition not only does not offer compensation to His Majesty for West and East Florida, whose cession the United States intimate would be very agreeable to them, but it involves the relinquishment of the property and possession which His Majesty has of the territory in the province of Texas, which lies between the Colorado and the vicinity of Natchitoches.

To propositions so distant from the equality and reciprocal convenience in which we have agreed to treat these affairs, I answered, that as the powers of His Majesty had been hastily sent to me by Mr. Cevallos, to take advantage of the departure of Mr. Brent, I have not received express instructions touching the entire cession of the two Floridas which the United States wished; and although they prove to me the desire of His Majesty to accommodate them in all arrangements which may be compatible with his interests, I saw myself obliged to wait for instructions on this point, of so much the greater importance, as it relates to the cession by His Majesty to the

United States of the port of Pensacola, which was the key of the Gulf of Mexico—the best port of that gulf—and which was the more necessary to His Majesty for the security of his possessions; but that, in the meantime, if you should propose to me, on the part of this Government, to make the Mississippi the frontier, I should see in that proposition a disposition on the part of the United States to offer some equivalent, and I would recommend it to the consideration of His Majesty as a fixed and stable limit to assure the peace and tranquillity of the two nations.

I hope that you will recognise in this exposition the sincerity and ingenuousness with which I proceed, and that you will on a view of it adopt, of the two modes proposed for setting on foot the negotiation, that which will be most agreeable to the United States. The first—that is to say, that of discussing and agreeing upon the reciprocal rights and pretensions of the two nations—is the safest, and that which ought to conduct us with the greatest precision to the indemnities and to the establishment of limits between them; since nothing is more easy than that, each point of justice being agreed upon, the equivalent to it should be arranged upon principles of equality and reciprocal convenience. The second is shorter, but it requires a relinquishment of all views of aggrandizement on both sides; and that each Government, adopting as a basis the *uti possidetis*, either of the year 1792, which is the one fixed on by the allied Courts in the general pacification for the recognition of the right of property in their possessions, or that of the year 1763, after the conclusion of the treaty of peace between Spain, France, and England, (in which treaty the limits of their provinces were fixed, and the two Floridas were separated—the East from Spain and the West from France—by transferring them in full sovereignty to England,) may come to a just and friendly understanding, so as to do away these disagreements, I am ready to discuss with you in the first mode just referred to. I am also ready to treat with you by adopting the second; and I flatter myself that I shall in either case give you proofs that I will not depart from what is due to justice, equity, and the mutual convenience of the two nations.

I renew to you, &c.

LUIS DE ONIS.

*Copy of a letter from the Secretary of State to the Chevalier de Onis.*

DEPARTMENT OF STATE, Jan. 25, 1817.

SIR: I have had the honor to receive your letter of the 16th, in reply to mine of the 14th of this month.

It having been the invariable desire of the United States to settle all differences with Spain on just and fair conditions, it is seen with much regret that a similar disposition is not manifested on the part of your Government.

Finding by your letter that I had distinctly understood the views of your Government as explained by you in our late conference, and

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stated in my last letter, and perceiving also that you still adhere to those views, which, being altogether inconsistent with the rights of the United States, are inadmissible, I have to repeat that this Government has no motive to continue the negotiation on the subject of boundaries.

In making this frank declaration, I cannot avoid expressing my surprise that you should now find it necessary to refer again to your Government for instructions on any part of this subject. These differences have long existed, and as far back as 1805 were fully discussed, as you readily admitted, in every circumstance appertaining to or connected with them, in a special mission to Madrid for the purpose. It was hoped and expected, on the restoration of the diplomatic intercourse between the two nations, that you would have been invested with full power to settle them; and it was in accord with your views, when this was found not to be the case, that the requisite authority was given to the Minister Plenipotentiary of the United States at Madrid. It could not have been doubted, as your Government had not authorized its Minister here to bring these controversies to a conclusion, that the Minister of the United States would have been promptly met in his offers to effect it at Madrid. I need not repeat to you the great disappointment which the President felt, when, after the lapse of so much time, he was informed that an expression of regret in my letter to you of the 10th of June, at the delay resulting from your want of powers, and from the necessity of transferring the negotiation to Madrid, had been misconstrued into a desire that it should be transferred again to the United States. On examining, however, the tenor of your commission, and the communications between Mr. Cevallos, both of which seemed to contemplate a prompt conclusion of the business here, the idea now brought forward in your letter, of a further resort to your Government for other instructions, was surely the last to enter into the anticipations of this Government.

It is proper to add, that I understood you to concur in our late conference, fully with me in the sentiments that any further discussion of subjects, which had been already so often discussed and completely exhausted, would be useless, since it could not be presumed that any change of opinion on any point would take place on either side. Each party understands its rights, and has, doubtless, made up its mind as to the conditions it is willing to adopt. To those suggested by you, as being worthy the consideration of your Government, this Government cannot agree.

Under these circumstances, I have again to request that you will do me the honor to inform me whether you are willing to conclude a convention to provide indemnity for spoliation, and the suppression of the deposite at New Orleans, as mentioned in my last letter.

I have the honor to be, &c.

JAMES MONROE.

CHEVALIER DE ONIS.

*Mr. Onis to the Secretary of State.*

FEBRUARY 10, 1817.

SIR: I have received the official letter which you did me the honor to address to me, under the date of the 25th of last month, stating that, notwithstanding the desire the President had to adjust all differences between Spain and the United States on just conditions, and to their mutual convenience, it was seen, with great regret, that a like disposition was not manifested on the part of Spain.

You support this opinion on the ground that I adhere to the same sentiments which my Government manifested in former times; and also that the President, seeing the powers with which His Majesty had been pleased to honor me, could not comprehend why I should think it necessary to recur to my Sovereign to obtain new instructions. You will permit me to observe, that the number of privateers armed in the ports of this country, to cruise under an unknown flag against Spanish commerce, have obstructed, in such a manner, the communications between the Peninsula and these States, that the accidental circumstance of Mr. Brent's having taken charge of the duplicates of His Majesty's powers has alone obtained for me the receipt of them, and that I am even yet without the originals; with which, doubtless, His Majesty sent me instructions, and communicated to me his reasons for transferring the negotiation here. I can assure you that I am entirely ignorant of what has passed in Madrid between Mr. Erving and Mr. Cevallos, and that I am not less so of the motives which have induced His Majesty to transfer the discussion here, notwithstanding I had informed him that I had myself proposed to you that authority and instructions should be given to Mr. Erving in relation to it, it being clear to me that His Majesty desired nothing with more anxiety than to see an affair terminated which must be the precursor of the reciprocal intimacy which should be established between the two Governments for the mutual benefit of their respective subjects and citizens.

If I might be permitted to conjecture the motives which have induced His Majesty to transfer the negotiation here, I believe I should not mistake in designating, as the principal one of them, the knowledge His Majesty has of your talents, of your justice, (*justificacion*.) and of the conciliatory disposition which you manifested in your conferences with Mr. Cevallos to concur in the settlement of these discussions; and, as the second, this: that in the moment of the arrival of the Queen, his august spouse, and of the festivities incident to this happy event, His Majesty could not give the attention which was requisite to these affairs, which he considered of the first importance. You are too just not to appreciate these motives, and not to see in them nothing but a new proof of the anxiety of His Majesty to avoid all delay or inactivity. The President, informed by you of these motives, will, I flatter myself, form the same opinion, and see the neces-

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sity of my waiting for the necessary instructions from my Sovereign, before I subscribe to the points which ought to form the basis of this treaty. The short delay which may result from this will be amply compensated for, and with mutual advantage, if you would place me in a situation to inform my Government of the principal points on which the Government of the United States wish to see this negotiation turn. You know that as yet you have only made known to me, in our first conference, that if we were to go into a discussion of the rights of the two Powers, as was done by you and Mr. Cevallos, much time would be lost, and each of us would retain his opinion. You know that I agreed to this, but at the same time intimated that I saw no other more certain mode of accomplishing the object which the two Powers had in view, since it must be with a knowledge of the respective rights of each party that we ought to begin in fixing the indemnities and compensations which belonged to each on the principles of equity, justice, and convenience; and that the only way of avoiding this, and of shortening the negotiation, would be that the two Powers, giving up all pretensions and all idea of rivalry or aggrandizement, should agree between themselves, in good faith, to fix their limits according to equity, justice, and mutual convenience, so that they should not be liable to be violated by the subjects of the one or the other, and in a way to avoid the renewal of the complaints which had given rise to misunderstandings. You approved an idea so liberal, so generous, and so demonstrative of the disposition of the King, my master, to accommodate the United States in whatever might be agreeable to them, if not incompatible with his interests; and, in consequence, you made known to me that the United States wished to unite to their dominions the two Floridas. As, in the former negotiations, the cession of West Florida to the Rio Perdido was alone spoken of, and as His Majesty was ignorant of the new desires of this Government, I said to you that, although I did not positively know whether His Majesty would deprive himself of East Florida, and of the important port of Pensacola, which was the key of the Gulf of Mexico, yet the desire of His Majesty to gratify this Government was great, and that it was very probable he might agree to do it, provided that, on the part of the United States, there should be offered to him a just equivalent, and one of reciprocal convenience.

I leave it to your impartiality and justice, and to that of the whole world, to say if, on the part of His Majesty, a more positive proof is wanting of the interest which he takes in arranging these affairs in a friendly manner; and if I should not find myself more authorized to doubt of equal dispositions on the part of the United States, in consequence of the proposition which you made me, not only of not giving anything in exchange for the two provinces, and the cessions of which the United States desire, but requiring that His Majesty should cede to them a part of another, which has been in the uninterrupted possession

of His Majesty for more than two hundred years.

I am nevertheless, very far from judging it thus. A firm and permanent arrangement of all points of difference is equally useful and necessary to both nations. It ought to fix the basis of the happiness of their respective subjects and citizens; and, to obtain this, it ought necessarily to be founded in justice, equity, and mutual convenience. His Majesty is disposed to conclude it on these terms; and he has too much confidence in the well-known rectitude of this Administration to think that it could solicit it on other terms.

You are pleased also to inform me, in your esteemed note, that to the propositions which I have suggested as worthy of the consideration of my Government, that of the United States cannot agree; and that, abandoning the arrangement of limits, you desire only to know if I am disposed to sign a convention for settling the injury sustained by the American commerce, and for the suppression of the deposit at New Orleans.

As the propositions which I have made to you were confined solely to the leaving to your election whether we should treat by discussing and fixing in a friendly manner the respective rights of each Power, to the end that, having agreed to them, and the obligations of each upon the other being known, the compensation to which each may be entitled might be settled; or that, leaving things to remain in the state they were, we might agree in a friendly manner as to what would suit each, I cannot conceive that the United States should be of opinion that they cannot agree to any of these points.

I would offend my own delicacy if, after being assured by you that the United States were disposed to terminate all the differences which exist between the two nations by a treaty founded on justice, equity, and mutual convenience, I could believe that the United States would repel the only means which, in my opinion, exist to arrive at this end. I judge, then, that I have not explained myself with sufficient clearness, or that I have not well comprehended you; and I again renew my propositions in a plain, clear, and demonstrative manner, giving you an example which you cannot but find just.

Let us suppose (and it is a very proper supposition) that you and I are intimate friends; you have purchased an estate adjoining one of mine; (I do not now inquire whether you purchased it from a person who had a right to sell it or not—but you purchased it;) and, be it because some officious person said so, or because you thought so, you were of opinion that there was included in this purchase a part of my estate, which I worked, took care of, and possessed. As soon as you had made this purchase, and observed that possession was not given you of the land I worked, and which you believed to belong to you, you asked me to give it up to you. I observed to you that it was mine; that the land which you had purchased had also belonged to me formerly; that I had ceded it to him who had sold it such as he

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had delivered it, and in no greater extent; and that, consequently, he could not transfer to you more than I had given to him. You and I refer to the seller, and he tells us that he never sold the land to you which you require, and never obtained it from me, nor had an intention of acquiring it. Notwithstanding this declaration, which is decisive and irrevocable, I, from motives of friendship for you, and to do away all doubt on the point, propose to you that we should discuss the affair in a friendly manner, and assure you that, if you present to me unquestionable documents to prove that it belongs to you, I am ready to give it up. I ask you, dispassionately, if this proposition could be considered as inadmissible? I go further. I, who am anxious to accommodate you, because you are my friend and a good neighbor, knowing that you desire to get part of my territory to round out yours, and to facilitate the exportation of your produce, as there is a navigable river passing through it, carry my friendship and condescension so far as to say to you that we will agree between ourselves, by a friendly investigation, what belongs to each; and, this being settled, I am ready to cede to you the lands you desire for an equivalent founded in equity, justice, and reciprocal convenience, fixing the limits between us in such a way that our servants should not engage us in quarrels and contests, as, it being our desire to live in the greatest harmony, we were equally interested in avoiding every subject of difference. Will you say to me that these friendly propositions are inadmissible? I believe not. Such, then, neither more nor less, are those which I have suggested to you in my former official note, and renew to you by this, hoping that, taking them into serious consideration, you will view them as just, equitable, and even generous.

You cannot but know that the convention you propose, limited to the indemnification for injuries done to the American commerce by the cruisers and tribunals of Spain, and by the suppression of the deposit at New Orleans, will not accomplish fully the object which the two nations propose to themselves, of extinguishing all disagreements. Nevertheless, to give another proof of the deference of His Majesty to the wishes of this Republic, I agree to enter into negotiation with you on these two points, and to conclude a convention as to them, in which shall be embraced the just reclamations which His Majesty shall produce against this Government, and the various arrangements he desires to place in it for the encouragement of the commerce between the two nations, and to avoid injuries such as those which, from the want of explicitness in the last treaty, have been experienced by the respective subjects of both. I will add more, and it is, that the first point to which you refer being founded in the treaty which exists between the two nations, I will subscribe to it without difficulty; and as to the second, it is of so small an amount, that if I do not succeed in demonstrating to you that these injuries have not existed, or that they are much exaggerated, and that the United States have al-

ready admitted that they were satisfied for them, I will have no difficulty even as to them. I ought, likewise, to observe to you that it will be easy to include in this same convention or treaty a provisional arrangement of limits, without detaining us to fix them with exactitude. If the United States do not desire to make an essential change in the established limits fixed by the treaties of 1763, 1764, 1783, 1795, and 1800, and that this arrangement should only apply to the uncultivated lands to the north of the Missouri, the boundaries of which were never settled between France and Spain, this question might be left for commissioners named by each party, and their decision might be considered as part of the convention; but, in any case, the most efficient method of concluding these affairs will be, that you should have the goodness to say to me, with frankness, what are the real views of the United States, what are the real and true compensations they are disposed to offer for the country they desire to obtain from His Majesty. You may be assured that I will support, earnestly, proposals that are just and reciprocally convenient, and that, on the return of the courier, I shall be able to sign, under the powers I now have, a treaty mutually satisfactory to both parties, we, in the meantime, agreeing upon all the articles of minor considerations. You cannot but know that the instructions ought to be adapted to the greater or lesser territory of His Majesty, which the United States may desire to add to their dominions; and that, if they desire none, little difficulty can occur on the subject of indemnities between two Powers animated by conciliatory and just sentiments. I am, &c.

LUIS DE ONIS.

*Copy of a letter from the Secretary of State to the Chevalier de Onis.*

DEPARTMENT OF STATE, Feb. 20, 1817.

SIR: I have had the honor to receive your letter of the 10th instant.

From full consideration of the contents of this letter, it appears that, although you expect instructions at an early date to negotiate and conclude a treaty for the adjustment of all differences between the United States and Spain, which you manifest a desire to accomplish, you do not consider yourself authorized to do so on any one point at this time. I will thank you to state whether I have understood correctly the idea which you intended to convey. In case I have, I have only to remark that, although the delay is particularly to be regretted, it is not perceived that any advantage can be derived from entering into the negotiation before you have received your instructions. I have, &c.

JAMES MONROE.

*Translation of a letter from the Chevalier de Onis to the Secretary of State.*

WASHINGTON, February 21, 1817.

SIR: In the official letter which you did me the honor to direct to me yesterday, you state

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that you had taken into consideration the contents of mine of the 10th instant; and, confining yourself to one point only out of many on which it touches, of the greatest importance, as I think, to the interests of both nations, you say that if you had correctly understood the meaning of my letter, at the same time that I manifest a desire to conclude a treaty for the adjustment of all the differences existing between Spain and the United States, I do not consider myself authorized to do so until I receive the instructions from my Sovereign, of which I am in daily expectation. You ask me if this is the true idea which I had wished to give you, and add that, if it is, although we must both lament the delay, it is not perceived that any advantage can be derived from entering into the negotiation until I receive my instructions.

In my note above mentioned, I made known to you, with the candor and sincerity which characterize me, the causes to which I attributed the delay in receiving the instructions consequent on the powers which His Majesty had given me; and I do not doubt that the President will have found them as just as the reasons I stated to you, demonstrating that a partial negotiation, which did not embrace all the points of disagreement between the two nations, cannot accomplish the object of the one or the other—which is to get clear of these disagreements, and to take care that they are not renewed in future. The treaty in question ought to provide for the just reclamations of the subjects and citizens of the respective parties; in it the limits between the two Powers should be fixed agreeably to their respective rights, to equality, to justice, and reciprocal convenience. Finally, it ought to comprehend different stipulations analogous to the new state of relations of intimacy which is about to be established between the two Governments for the greater encouragement of their reciprocal commerce. You know that all these points have so intimate a connexion with each other that it is not easy to separate them; and, on the other hand, they are of such importance that I consider it necessary to wait the arrival of my instructions before I conclude definitively a treaty involving affairs of such magnitude. Nevertheless, as we cannot but feel this delay very sensibly, which most probably will be short, anxious on my part to lessen it so far as depended on me, I have suggested to you that we might begin to discuss the points of least importance, to the end of having the work in a state of forwardness when the instructions should arrive; but, since you prefer waiting for their arrival, I will agree to what you may resolve on, persuaded that you do not take less interest than I do in fixing the relations of amity between the two countries on a footing the most solid and durable.

*Don Luis de Onís to the Secretary of State.*

PHILADELPHIA, July 9, 1817.

SIR: I am under the necessity of calling your attention, and that of the President, to what has

occurred at Baltimore, in relation to the two privateers or pirates which have lately entered the bay of Chesapeake, and now are within the proper limits of the State of Maryland; the one commanded by Captain Taylor, and the other by Captain Stafford. It is notorious that these privateers, manned and armed in the ports of the Union, sailed on a cruise against the Spanish commerce, and have returned to the waters of Maryland with a part of the plunder and booty they have taken on board of Spanish and Portuguese vessels.

For the due conviction of this outrage, the necessary orders or warrants were sent, at the request of the Consul of His Catholic Majesty in Baltimore, to the marshal of that city, to proceed to the arrest of the aforesaid privateers, and for its execution a gunboat was granted by the collector of the customs. All this, however, was in vain; the marshal gave no effect to the orders issued for this arrest; and His Majesty's Consul, seeing that eight days had passed without the marshal taking a single step to fulfil the orders he was charged with, called upon him, and claimed their execution; upon which he replied, categorically, "that he was unwilling to proceed to the arrest of the said privateers, because it was not his duty to execute it, except they had entered the port of Baltimore; but by no means in the bay, although within the district of the State." The Consul lately applied to the district attorney, complaining of this conduct; and he acknowledged that indeed it was very extraordinary, but he took no steps to remedy it, or to enforce the observance of the laws of the United States in a case of so scandalous an example. These facts speak for themselves, and the mere statement of them is sufficient to make you and the President thoroughly sensible of the monstrous consequences which the irregular conduct of this marshal may lead to. It is perfectly evident that the public treaty between Spain and the United States, and the late act of Congress, sanctioned as a general law for the more strict observance of the neutrality of the same States with foreign Powers, are scandalously trampled under foot in Maryland; and that the marshal, by formally disobeying the lawful authority of the State, and that of the General Government of the Union, protected the hostilities and piracies carried on against the trade of a nation in a state of peace and amity with the United States. I cannot, therefore, do less than to remonstrate in the name of the King, my master, against so manifest a violation of the neutrality of this Republic, of its laws, and of the treaty existing between the two Powers; and to request that you will be pleased to obtain of the President the most prompt and effectual orders to cause the marshal of Baltimore to do his duty, and all requisite justice to the subjects of His Majesty.

It is my duty, also, to call your attention and that of the President to the conduct of the adventurer, Sir Gregor McGregor, who, since he was in arms with the bands of insurgents in the province of Venezuela, has come to these States,

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and been constantly engaged in enterprises to invade or disturb the tranquillity of His Catholic Majesty's possessions in that part of the world. He lately recruited in Charleston a great number of adventurers, and among them several persons of note, viz: one Rouse, son of a colonel of that name, an inhabitant of that city; one Champion, who was a commissary in the service of the United States in the late war, and storekeeper of ordnance; one Heath, a lawyer of the same place; and many others whose names I pass over. He purchased, under a borrowed name, a brig of considerable burden, which he despatched with passengers to New Orleans on the 19th of last month; and on the following day he went on to Savannah in the stage, according to common report, to recruit more people. His subsequent proceedings and hostile preparations in the bosom of this Union, against the possessions of the Spanish monarchy, are notorious, and announced with a scandalous publicity in many papers of these States. I hope, then, that you and the President will apply the energy of your zeal for good order and the observance of the public laws, by restraining these excesses and vexations, which compromise the neutrality which the President has proposed to preserve in the dispute subsisting between the King, my master, and some of his provinces in rebellion, and render null, as you may imagine, the security in which the Government of His Catholic Majesty rests, in a reliance on the safeguard of the said laws, and on that of the general principles of public good faith, which serve as the basis of the tranquillity and friendly intercourse between the nations and Governments of the world. I renew, &c.

LUIS DE ONIS.

*Mr. Pizarro to Mr. Erving.*

PALACE, July 16, 1817.

SIR: Since the happy restoration of His Majesty to the throne of his august progenitor, one of his principal objects has been to establish, upon solid foundations, his political relations with the several Powers friendly to Spain, by removing whatever obstacles were of a nature to affect their future good understanding.

From the beginning, the state of affairs between Spain and the United States called His Majesty's attention; and as soon, during the last year, as reciprocal organs of communication were established by the recognition of their respective Ministers, the King announced his desire of making evident the right of each Power on the different points of existing reclamations.

In your note of August 26th of the last year, addressed to my predecessor, you also manifested that you were equally disposed to enter into the discussion in behalf of your Government, and to conclude a treaty honorable and satisfactory to both parties, to which end you intimated that you were authorized by ample powers and instructions; but as the various questions depending between the two Governments, and the inci-

dents of later years, which had complicated them, formed a total of objects which appeared to require a prolix examination, His Majesty thought that this might be made between his Minister Plenipotentiary at Washington and the American Secretary of State, with more despatch than in Madrid, where the Government of His Majesty found itself at the time surrounded with a multitude of pressing engagements, arising from the necessity of re-establishing the order subverted by foreign invasion, and by the very extraordinary means which had been adopted to repel it with success.

The Minister of the King in Washington was perfectly acquainted with all that happened of late years; he knew to the foundation all the rights of Spain upon each of the depending questions; he was aware how well disposed was the mind of His Majesty to attend to the reclamations of the American Government, which might be founded on justice, and even to accede to those in which he might voluntarily please the United States without injury to his vassals or to the rights of his Crown. It was, therefore, thought right to authorize him with full powers, and to make him aware that, after entering into an examination and discussion corresponding to the tenor of what he knew respecting the rights of Spain, he should proceed to an adjustment, taking for a basis the demonstrated right of each party upon each of the points discussed.

But it appears that the Government of the United States has deemed it to be superfluous to enter into an ulterior discussion of said points, after that which had taken place at a former period; and it appears also to have intimated its desire of an arrangement or conclusion upon the whole, jointly, of the respective pretensions, in which, without losing sight of the foundation of each, considerations of mutual convenience should be equally attended to, and to fix the basis of an order which could not be easily changed in future.

For this kind of arrangement, by way of conclusion, the Minister of His Majesty thought that competent instructions were wanting to him; and in fact he was in need of those which were much more detailed than those he already had, since they were intended to terminate the business, taking for a basis only the examination and knowledge of the rights of each in the different objects which the negotiation embraces.

Soliciting more ample instructions, the Minister has sent to Madrid the Secretary of his Legation, Don Luis Noeli, and His Majesty has ordered that they be prepared and arranged with all possible despatch. But as in this course, which it is desired to give to the negotiation, it is perhaps possible that you and I can arrive more readily at a result, seeing what you state in your notes of 26th August and 19th September upon the business, my desire to do whatever may contribute to a satisfactory termination induces me to ask you to please to explain whether you continue authorized to enter into con-



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ference with me, and even to conclude an arrangement on the matter; for, in this case, without failing to send to His Majesty's Minister a Washington suitable instructions, which the said Secretary of Legation will carry, we can also occupy ourselves in the same business, and perhaps arrive at a definitive arrangement with more promptitude than the Minister of His Majesty at Washington, who, by some occurrence or proposition made to him, not foreseen in the instructions, may be put to the necessity of again consulting His Majesty, and thus creating delay, which cannot happen with me, who have the honor to receive daily the orders of the King.

If you feel yourself authorized to this effect, our progress in this business may be substantially the same as indicated in your note of the 26th August; for though, in the projected arrangement, we take for our guide considerations of reciprocal convenience, and the desire to avoid the reproduction of motives of disagreement for the future, a consideration of the respective rights of our Governments in the questions depending can never be lost sight of, as you also indicate in your said note; to the end that the sacrifice or relinquishment which each may think it proper to make should be correspondent and proportionate to what he may exact from the other in return.

If we shall succeed in forming the arrangement which we desire to conclude, in a perfect knowledge of the right of each, modified by considerations of reciprocal utility, it cannot be but firm and durable, and consolidate a good understanding between the two nations, both of which are interested in preserving it.

I profit of this occasion to renew to you assurances of my high consideration, and pray God, &c.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 19, 1817.

SIR: I had yesterday the honor to receive your excellency's note of the 16th instant.

Adverting to a late correspondence between the Secretary of State of the United States and the Chevalier de Onis, Minister Plenipotentiary of His Majesty, your excellency seems to conclude that the American Government hath declined to enter into an "*ulterior discussion*" of the several points of difference which present themselves for adjustment between the two countries, and to have intimated a wish to make an arrangement founded upon an aggregate view of their respective pretensions, in which, without forgetting the principles on which the right of each reposes, a due regard should be observed to considerations of mutual convenience.

For this class of arrangement you allow that Mr. Onis had not sufficient instructions; those which he had, authorizing the termination of a negotiation only upon the basis of an examination and recognition of the rights of each party

on each of the several objects which the negotiation should embrace.

But it appears, from the correspondence adverted to, not only that Mr. Onis did not conceive himself to be authorized to negotiate and sign a treaty of the kind indicated, but that he was not empowered to negotiate and settle a convention on any separate object; for, by the Secretary of State's letter to him of January 4th, he was expressly invited to enter into such arrangement respecting two important points.

In fine, it distinctly appears that Mr. Onis found himself empowered to discuss every point, but not to conclude on any one separately, or on the whole in mass. This certainly did not accord with the just expectations of my Government, founded upon the declarations of Mr. Cevallos, when he transferred the negotiation to Washington.

But I refrain from dwelling more particularly on this matter, and pass to that part of your excellency's note which contains a proposal for arranging our differences here.

With a view to the most speedy termination of these differences, you propose that, without suspending or delaying the instructions which are to be sent to Mr. Onis, we now enter upon the negotiation; and you ask me whether I feel authorized to confer with you on the matter, and to conclude an arrangement. Instructed of the invariable desire of the President to regulate by treaty all the grounds of difference which have unhappily so long subsisted between the two countries, and to establish their relations of peace on the most solid and permanent basis; and being also well persuaded of the sincerity and conciliatory disposition which dictate this proposal on the part of your excellency, it is my duty to promote the object of it as far as may be in my power; and I do not hesitate to explain myself to you on this head with the utmost frankness.

The powers and instructions which I received from my Government, as announced in my letter to Mr. Cevallos of August 26, 1816, have not been revoked; but your excellency understands perfectly well the situation in which I am placed as regards these, by the refusal of your predecessor to treat here, and by the powers which he sent to Mr. Onis. You will clearly perceive that I cannot do or consent to any act which may have the least tendency to retard, in the smallest degree, the arrangement so much desired; consequently, that I ought to avoid entering into regular discussions on the several subjects of my note of August 26th—discussions which must needs occupy a great deal of time, and consequently delay the departure of Mr. Noeli; for I presume that it cannot be within your plan that he should depart pending such discussions, and thus produce all the difficulties, embarrassments, and interminable delays of a double negotiation.

Connected with this is another consideration of major importance. Your excellency is fully aware that the transfer of negotiations from Madrid to Washington, in the last year, had the appearance of an unnecessary procrastination,

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and that the subsequent discovery of the insufficiency of Mr. Onís's instructions might even seem to justify the reproach of its being a studied one. Now, the retransfer of the negotiations to Madrid, unless we are perfectly certain that they will terminate favorably, will, as far as it may tend to create further delay, necessarily have the same effect in augmented force. I am confident that such a course is neither in the policy nor character of your excellency; it is necessary, however, for me to pronounce myself explicitly on these points.

The Secretary of State of the United States, in his letter to Mr. Onís of January 25th, has observed that Mr. Onís "had agreed with him that any further discussion of subjects which had been so often discussed and completely exhausted would be useless, since it could not be presumed that any change of opinion on any point could take place on either side. Each party understands its rights, and has doubtless made up its mind as to the conditions which it is willing to adopt."

Within the rule, therefore, which this paragraph points to, I am disposed to act. I presume your excellency's plan to be substantially the same, and your proposal to have been suggested by and founded on that which you understand the Secretary of State of the United States to have made to Mr. Onís; indeed, you have expressed yourself on both of them in nearly the same terms.

Thus, when His Majesty's Cabinet shall have determined on the instructions to be given to Mr. Onís, it will have determined on the conditions on which the treaty shall be made; then, if your excellency will offer to me the basis of an adjustment, I will say instantly whether I can or cannot accede to it, or will propose to you such modifications of it as my instructions may require, and His Majesty's Government may find to be admissible.

In these transactions we shall, as your excellency has well observed, take for our guide considerations of reciprocal convenience, each of us keeping in view the rights of our respective Governments. These being perfectly understood by both of us, and no discussion being necessary to fix our knowledge of them, we shall avoid reproducing the motives of disagreement to which you allude; and by this knowledge we shall also regulate the concessions which either may be disposed to make.

Thus we may terminate instantly, and in perfect harmony, all causes of present complaint and all grounds of future misunderstanding, and, in a manner satisfactory to both Governments, lay a secure foundation for those friendly relations which they are equally desirous to maintain.

I renew to your excellency, &c.

*Mr. Pizarro to Mr. Erving.*

PALACE, July 27, 1817.

SIR: I have received your esteemed note of the 19th instant, in which you are pleased to re-

ply to mine of the 16th; and I observe by it that we are animated with equal sentiments and desires to see the different questions pending between our two Governments satisfactorily and honorably terminated. With these dispositions on either side, it will not be difficult for us to arrive at the desired arrangement, provided it is accompanied with a due impartiality of judgment on the matter produced by each of us in support of his rights and pretensions.

I allow that a prolix discussion on the points which have been heretofore agitated may be dispensed with, although subsequent circumstances have not failed considerably to change the state of the question; but I cannot persuade myself that it will be the shortest or the easiest method to present on either side a project of an arrangement of the whole, without a previous examination or conference, in which at least the points in question, and the actual state of them, should be ascertained and settled, and those on which we agree and those on which we disagree should be determined on, and a summary view given of the reasons and grounds of our diversity of opinion. This knowledge is the only rule by which we, our Governments, and the world, can determine upon the propriety or impropriety of the conditions of settlement which may be proposed to you, or of those which, on your part, you may judge proper to propose to me, if you do not conform to those offered by me.

This, I believe, was your mode of thinking, and appears also to have been the orders and instructions of your Government, when, in your note of the 26th August last, you were pleased to say to my predecessor, "I am specially instructed to discuss and to settle with your excellency all the ancient causes of misunderstanding, as well as the questions growing out of recent occurrences, which are of a character unfavorable to the object in view;" and in another part you add: "A frank exposition of all the grounds of complaint is at once the most just and most judicious course; for, to suppress or to smother any of them, in condescension to temporary considerations, is but to leave the seeds of future discord, and to substitute palliatives and expedients for satisfactory and solid arrangements."

Though the urgent occupations which at that time engaged the attention of the ministry did not allow of its entering with you into the desired discussion, yet His Majesty did not disapprove of the method and idea proposed by you; on the contrary, the very same served as a rule for the conduct prescribed to Don Luis de Onís, the seat of negotiation only being changed; that is, instead of its being carried on at Madrid between you and the Secretary of State of His Majesty, it was to be carried on at Washington between the Secretary of State there and the Minister of the King.

Don Luis de Onís, to whom was prescribed the said conduct adequate to your proposition, could not but notice the considerable difference between what he had been thus advised of, and the manifestation which was forthwith made to him by

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that Government, of its considering any discussion to be useless, since it was not to be presumed that either party would change its opinion; and this circumstance has been one of the motives which has obliged him to solicit instructions more suited to the present dispositions manifested by that Government, as I had the honor to state to you in my note of the 16th instant.

I give due weight to what you are pleased to indicate to me relative to your situation after the occurrences which have intervened; but I also think that, animated with the same zeal for the true interest of our Governments, we may in a short time do much, and, without considerably retarding the departure of Don Luis Noeli, we may arrive at some conclusive result, or at least facilitate the conclusion of the negotiation.

In my opinion, the object would be promoted by a short discussion, in which we shall establish the points of controversy, and the respective grounds of them, before presenting any plan of arrangement; but if you think differently, I have no objection to make out a project of arrangement, though it will carry with it the inconvenience of not having been preceded by an examination of the solid foundations on which, I believe, I am able to support it; at the same time, the instructions which Don Luis Noeli is to carry to the Minister, Onís, will be preparing; for the intention of His Majesty is, that no means or mode shall be neglected which may produce an arrangement, provided that the conditions of it be compatible with the interest of his vassals and the honor of his Crown. I renew, &c.

JOSE PIZARRO.

*Mr. Erving to Mr. Pizarro.*

MADRID, July 29, 1817.

SIR: I had the honor to receive yesterday evening your excellency's note of the 27th instant.

Respecting what is contained in my note of the 19th instant, in reply to the proposal which you were pleased to make to me in your note of the 16th instant, you observe, that though a prolix discussion of the several points in question between our two Governments may be avoided, yet that, previous to any project for the arrangement of them being presented, it might be well for us to enter into some examination, and come to some agreement upon each of them. You deem this mode to be necessary for the justification of our proceedings before our respective Governments, and you conclude that it is the one which I had in view in my note to your predecessor of August 26, 1816. You go on to remark, that though the urgent occupations of that Minister at the time prevented his adopting my plan, yet the same was given for a rule of Mr. Onís's conduct in the negotiation then transferred to Washington; and that it was not till Mr. Onís found the Government of the United States indisposed to renew discussions on subjects which had been so completely exhausted, that he thought proper to send home for such

further instructions as might enable him to treat in the mode proposed by the Secretary of State.

Your excellency will permit me to remind you that all the principal points put forward in my above-mentioned note to Mr. Cevallos had been most minutely and repeatedly examined and debated, and that one of them had been adjusted by a convention made here in the year 1802, during the ministry and through the agency of Mr. Cevallos himself; that, subsequently, viz: in the year 1805, Mr. Cevallos being still Minister, the United States, with a desire of regulating by treaty all those questions, sent Mr. Monroe (late Secretary of State) a Minister Extraordinary to this Court; and that, in the negotiations which then took place at Aranjuez, all that learning and ingenuity could produce was exhausted in controversy. Little remained then for me but to reproduce the subjects of complaint, and to support them, wherever they might be contested, by the ample materials which had been furnished by those who had gone before me. At the same time a reasonable hope, founded on the assurances of Mr. Onís, was entertained by my Government that the Spanish Cabinet would readily consent to forego all irritating questions; the same sentiment was, therefore, expressed in my communication to Mr. Cevallos, and it had evidently a view to the prompt termination of the negotiation. As to the motives which may have induced Mr. Cevallos to decline negotiation, I am bound to consider as valid those which your excellency has offered. They are not, however, such as he thought proper to allege in his note to me of September 15, 1816. He founds his determination on a passage in Mr. Monroe's letter to Mr. Onís of June 10th; the very letter in which the Secretary of State, after expressing his regret that Mr. Onís had not power to negotiate, informs him of my appointment for that purpose. How Mr. Cevallos could have construed this into a desire of the President to remove the negotiation to Washington, thus rendering useless the instruction which it was announced had just been given to me, I am wholly at a loss to conjecture; but certain it is that no other plea was offered for the very extraordinary measure then taken than His Majesty's desire to accede to the wishes of the President.

I understand your excellency to intimate that the plan of negotiation proposed by me to Mr. Cevallos having been approved by His Majesty, and given to Mr. Onís as a rule for his conduct, no change of policy or disposition in this Government is to be inferred from its removing the negotiation to Washington—that it was a mere change as to place, which is not important.

On this your excellency must allow me to observe that Mr. Onís himself, after he had received his powers, confessed, in a note of February 10th to the Secretary of State, that he was entirely ignorant of what had passed between Mr. Cevallos and me. If you will revert to the correspondence, you will find abundant proof that Mr. Onís was not placed in the situation which you have supposed.

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In my note to Mr. Cevallos of August 26, 1816, I am told that I was "specially instructed to discuss and to settle." In that of September 19th, that I could "in no case be under the necessity of referring to my Government for future instructions," &c. I expressly asked the Minister whether it was His Majesty's intention to place Mr. Onís "in a position equally favorable to the speedy adjustment of our differences." Mr. Cevallos did not pretend that such was his intention; and, in fact, we find by Mr. Onís's correspondence in several places, but most distinctly in his letter of February 21st to the Secretary of State, that he had no instructions whatever. In that of February 10th, he even makes conjectures as to the mode in which they may have miscarried; in that same letter he also makes conjectures as to the motives which his Government may have had for transferring the negotiations to Washington. And thus, sir, it is also made evident that Mr. Onís has sent home for instructions, because he had them not; not because he has made any new discovery as to the views of the American Government with respect to the mode of conducting the negotiations.

Certainly, after all the discussions which had taken place upon all the points in contest between the two countries, it was no extravagant expectation in the Government of the United States that the Spanish Government was prepared for an arrangement, and that no more time was to be lost in reconsidering matters which had been so often considered. Yet, withal, in consenting, in the year 1816, to treat in this way with Mr. Onís himself on the great question of boundaries, the claims of the United States on that point are very particularly insisted on in the Secretary of State's letter to Mr. Onís of June 10th of the same year. I beg leave to call your excellency's attention to that letter. It was after that attempt to settle the point had failed, from the impossibility of coming to an agreement, created by the very extraordinary pretensions set up by Mr. Onís, and after he had declined to enter into any negotiation for the claims of the United States on account of spoliation and the suppression of the deposit at New Orleans, that the Secretary of State wrote to him the letter of January 25th, which your excellency has quoted; and even in that very letter he anew invites Mr. Onís to negotiate on the points mentioned in his preceding letter of January 14th.

Your excellency will see, then, that the American Government has never avoided discussion, when it might tend to any useful purpose, but that it has avoided all controversy which could produce nothing but irritation; and that it declined to continue to agitate these questions with Mr. Onís only when it saw that he had no authority to terminate them by an arrangement.

Had Mr. Cevallos made to me the proposal which your excellency now makes, I had readily accepted of it, and I presume that it might have led to a happy result; but, by the course which that Minister took, I have been left in a situation of peculiar delicacy; and of this I perceive that you are fully aware. It is not in my

power to treat these subjects now as I would have treated them at that time; this were to transfer the negotiation to Madrid, the inconveniences of which I have pointed out in my note of the 19th instant. To this purpose my instructions are not competent. It is therefore that, though animated by the same conciliatory dispositions which are manifested by your excellency, and though equally anxious to contribute to the desired result, I have yet felt myself obliged to confine myself to the simple proposal contained in my last note.

You are now occupied in forming instructions to Mr. Onís, which, as you are pleased to explain, are to be calculated to enable that Minister to conclude a treaty with the Government of the United States on principles of reciprocal accommodation, without renewing controversies with which both parties ought to be completely fatigued. That being so, it will be quite easy, as it appears to me, for your excellency to accede to my proposal.

Your instructions render discussions at Washington unnecessary; they cannot then be necessary here; they will contain in effect the terms of a treaty. The same may then be proposed here, with a view to saving of time, and to avoiding the possible delays pointed out in your note of the 16th. You will of course found your instructions on a thorough knowledge of antecedent discussions. I, on my part, am fully informed on the claims of my Government. You are also well acquainted with the extent of those claims, and of the ground on which they repose. I can have nothing new to offer to you on the subject. We bring into our communications a reciprocal spirit of conciliation, and a mutual conviction that the questions in dispute are susceptible of an adjustment which will establish on a solid foundation the friendly relations between the two countries. Your excellency cannot fail to conform to the wishes of your Sovereign, whose daily orders you have the advantage of receiving; and I, on my part, doubt not but that, in accepting an arrangement which shall secure the rights and honor of the United States, I shall meet with the approbation of my Government.

I renew to your excellency assurances, &c.  
G. W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 17, 1817.

SIR: In answer to your esteemed note of the 29th ultimo, and to conform with your wishes, I shall proceed to present you in this letter with my ideas as to the plan of an arrangement which may at once terminate in a friendly way, with reciprocal utility, and without leaving seeds of discord for the future, all the questions pending between the two Governments. My desire to please you induces me to make it in this form, although I am persuaded that any method of proceeding is premature which deviates from that indicated in your letter of August 26 of the last

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year; and that the sure method of arriving at the arrangement desired is, as I had the honor to tell you in my note of the 16th of June last, "to take for our guide the perfect knowledge of the right of each party, modified by considerations of reciprocal utility."

Allow me to observe, first of all, that you are pleased to express in support of the mode of thinking of your Government, as to the points of discussion having been exhausted in the negotiation at Aranjuez in the year 1805, does not appear to me to be altogether well founded; for, since that epoch, so great is the mass of documents and authentic and indisputable proofs, as well French as Spanish, which His Majesty has collected respecting the subjects of that discussion, and particularly relative to the western boundary of Louisiana, that I doubt whether there be a point which is susceptible of more exact and rigorous demonstration than the determination of the dividing line, which has separated (and separates) Louisiana from the province of Texas and the other Spanish possessions in that part of the continent, as I will have the honor to show you in the event of our entering particularly into the examination of this question.

On the other hand, as I have already intimated in my note of the 27th ultimo, and as you have previously acknowledged in yours of the 26th August, the circumstances that have occurred since the year 1805 have considerably altered the state of the question in nearly all the points of controversy.

To be convinced of this, it will suffice to reflect on the augmentation since that period of the claims for indemnity on account of losses, injuries, and harm suffered by the Government and subjects of the two countries in consequence of the excesses committed by individuals of both nations against the law of nations and the existing treaty. You, on your part, in your aforementioned note of the 26th August, indicate some of these, and I will not enter here into the details of those which His Majesty and Spanish subjects have to reclaim on their part, not only because this detail would be now inopportune, but because the claims on both sides are to be subjected to the examination and judgment of the mixed commission which may be established to decide on them.

Besides this, posterior to the year 1805, the extraordinary event has occurred of His Majesty's having been unexpectedly deprived, in the year 1810, during his captivity, of the pacific possession in which he was of that part of West Florida which is between the river Iberville, the lakes Maurepas, Pontchartrain, and Borgne, on the one side, and the river Perdido, on the other. When the indisputable property of His Majesty in the said territory was demonstrated, it was proved that Spain did not acquire it of France in 1763; that she received it of England in 1783 by a solemn treaty; that it was not, and could not be, comprehended in the "retrocession of Louisiana" made to France in the year 1800; that the Government of France "has declared so officially,"

and in the most solemn manner, as well to Spain as to the United States; that the fifth article of the treaty of 1778 between France and the United States opposes itself expressly to the *acquisition by France* (though she had attempted it) of said territory from Spain in 1800; that the royal cedula of His Majesty, issued in Barcelona on the 15th October, 1802, for the delivery of Louisiana, (which royal cedula was in the hands of the French Government before the United States thought of acquiring the colony,) did not contemplate the delivery of territory east of the Mississippi other than that of the "*island of New Orleans*."

To these grounds, which *have* established, and do establish, in the clearest manner, the property of His Majesty in the said territory, may be added those of his pacific possession without interruption. The delivery of Louisiana took place without the least idea having occurred to the French commissioners, who received it of His Majesty for the purpose of delivering it to the United States, of aspiring to the possession of the territory between the Iberville and the Perdido; Spain continued, in the years following the delivery, exercising over it all her authority, and the United States respected this possession. A certain custom-house regulation of the United States, in the year 1804, which seemed to contain some expressions susceptible of an equivocal meaning as to the rights of His Majesty in the territory of Mobile, was disclaimed against on the part of the King, and the United States agreed to give a satisfactory and honorable explanation as to the said expressions. Whatever might be then, in that state of things, the pretension of right which might be formed against it, it did not appear to conform to the principles universally acknowledged to enforce that pretension\* *by means of acts*, and, in truth, it was a painful duty for the faithful Ministers of His Majesty, on his return from his captivity, to explain to him by what means and circumstances he had been deprived of the peaceful possession of the greater part of West Florida without war, or any other stipulation which could authorize, having preceded it.

The King, attributing this extraordinary event to the circumstances (also extraordinary) of the epoch which had intervened, flattered himself that the United States would not defer placing things in the state which they were in at the time he left his dominions, and the invasion of the Peninsula by Bonaparte. The glory, and even the interests of the United States, might equally incline them to this restitution; for a recent and costly experience has made the world see that there are no acquisitions of territory, however extensive, which can compensate the advantages to result from the reputation which those Governments acquire who regulate their operations by principles conservatory of order and justice.

With these ideas, the King directed his Minister at Washington that, before he entered into the discussions which had remained pending, he

\* *Vias de hecho* is French phraseology—*voie de faites*.

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should solicit the restoration of affairs in the state in which they were at the time of his absenting himself. This preliminary step appeared correspondent to the decorum of His Majesty, and the United States could not fail to acknowledge it to be so; it being very certain that the delicate honor of the American Government would not consent, in a similar case, to enter into other negotiations, finding itself inquired in the pacific possession of even one mile of its acknowledged territory, without first soliciting and obtaining the due restoration.

Notwithstanding this, and that the answer of the Secretary of State of the 19th January, 1816, is far from containing the satisfaction and restoration which Spain had reason to expect, His Majesty, to give unequivocal proofs of his moderation, and of his friendly dispositions towards the United States, without renouncing—as he does in no way renounce, nor will renounce, unless in the case of some compromise—the right of property and possession which he has in the said territory, has judged fit not to insist on his demand for the present, in the hope that this point, though in its nature it ought to be preliminary, may enter into the general arrangement with the others; but your penetration will acknowledge readily that on this essential point, as in others, the state of the question is not what it was in the year 1805, new occurrences of such importance having taken place since that period.

You ought not then to be surprised that Don Luis de Onís, seeing himself in the necessity of omitting all discussion, as well on the points already discussed in the year 1805 as on the more recent occurrences, and invited to give his judgment on plans of adjustment presented by one or the other party, should believe that the instructions which he previously had were insufficient, and even the intimation (*aviso*) conformable to the contents of your note of the 26th August, which was remitted to him with the powers; and that in this state he conceived himself without instructions to treat in the mode which, from the commencement, he knew would be agreeable to that Government; for, though you are pleased to say that it was by the note of the Secretary of State of the 25th January that Señor Onís might observe that it was desired to avoid all further discussion, I observe, by the letters which I have from that Minister, that on the 6th January he received the powers of His Majesty, and that on the 10th of the same month he advises that the Secretary of State had already in verbal conference expressed his opinion that discussion was useless, and that he had desired that proposals and plans of arrangement to be made out, which were already making out on the 12th.

But, leaving aside these incidents, which will be settled by the transmission of competent instructions to Señor Onís, I go on to propose to you, as I have offered, the principal conditions of an arrangement which, in my opinion, may terminate with reciprocal satisfaction the pending questions. Although these will be sufficient to explain my mode of thinking, you will proba-

bly notice that in some points they are diffuse, where I have thought it necessary to allude to the right from whence proceeds the proposal made; and that in other places they are succinct, where I have thought that details may be omitted for the present which it will be necessary to enter into afterwards, if it be agreed to put in form the transaction, to clothe it with the correspondent authority; in which case we shall draw it out by common consent in terms appropriate to our purpose.

*Project of conditions or articles of arrangement.*

1st. His Catholic Majesty and the United States, carrying into effect the convention which is pending since the year 1802, oblige themselves to the reciprocal indemnification of the losses, injuries, and prejudices produced to the Government or subjects of either country, in consequence of excesses committed by individuals of either nation against the law of nations or the existing treaty, comprehending in this reciprocal obligation, not only the epoch to which the said convention of 1802 refers, but also indemnities for posterior excesses of the same kind, committed by individuals of either nation, from such epoch till the day in which the present convention shall be settled and signed.

2d. To admit, to qualify, to judge, and definitely to decide on the reclamations of this kind which shall be presented, as well on the part of the Government and vassals of Spain as on the part of the Government and citizens of the United States, a commission of five members shall be created, of which two shall be freely nominated by the Government of the United States, and two in the same manner by the Government of His Catholic Majesty, and the fifth by mutual consent; and in case both Governments cannot agree on the person to be designated for fifth commissioner, one shall be named on each side, and the final election of one of these be decided by lot; but the two persons so named shall have the following qualifications: 1st. They shall be neither Spaniards nor citizens of the United States, either by birth or naturalization. 2d. They shall be, by their profession and actual occupation, judges, such as in maritime and commercial States are accustomed to examine and decide in matters of public law and maritime affairs, whether from France, England, Russia, Austria, or the Low Countries. 3d. The nomination of the person shall be accompanied with a certificate of the Government of the country to which he belongs, by which shall be accredited the opinion there entertained of his integrity and sufficiency, of his quality and actual employment of judge in the said matters, and with a certainty that he may have permission to discharge the duties of the commission in case the lot should fall on him.

In case the American Government shall prefer that the commission be composed of seven persons, then the fifth, sixth, and seventh shall be elected by the same method, and have the same qualifications as are indicated for the fifth in this article.

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3d. The substance of the two preceding articles is taken almost literally from the convention drawn up in 1802, and from the same convention may be taken, strictly to the letter, all that is expressed in it respecting the rules which the commission is to observe from the moment of its installation till its dissolution, after the faithful and impartial discharge of its duty.

4th. His Catholic Majesty has no difficulty in consenting, also, that the same commission should decide on the reclamations arising from the losses said to have resulted from the suspension of the deposit at New Orleans, decreed by the Intendant of Louisiana in the year 1802, in the part of his decree which is reputed to be contrary to what is stipulated in the treaty of 1795, provided it is not desired to attribute to said suspension the prejudices produced by false rumors of a suspension in the navigation of the Mississippi, which never existed, and the rumors of an early rupture, which some bad-intentioned persons delighted to propagate at that time, in the territory of the United States; for the bad effects and prejudices resulting from such false rumors can only be attributed to the authors of them.

5th. His Catholic Majesty having received from the Government of France, on different occasions, the official and explicit declaration that the injuries supposed to have been brought on the Government and citizens of the United States by the French corsairs, agents, and tribunals, on the coast of Spain, had been comprehended and settled with all others in a convention made in 1800 between France and the United States, respecting the reclamations of the American Government, it follows, as well from this circumstance as from others which were previously manifested, that this point should be excluded altogether from the pending negotiations. But if the Government of the United States still insist in not considering itself satisfied for the said injuries, the natural course and order of the business appears to be, and has always been, that the American Government should apply on it to the Government of France, (to whose advantage, and to that of its subjects, the product of those depredations, if they existed, was converted;) and His Majesty, fulfilling on his part what is provided in this case by the sixth article of the treaty of 1795, obliges himself to employ his efforts, in union with the United States, to reclaim and cause to be restored to the legitimate proprietors the value of the vessels and goods which were taken from them, provided that these reclamations have not been extinguished by the said convention of 1800, as France has assured the Government of Spain in its repeated communications.

6th. His Catholic Majesty, master of Florida, East or West, in all the extension in which he received them from England by the treaty of 1783, and which they had in possession of Great Britain before said treaty, will be willing, for his part, to cede them with the same extension to the United States of America, in full property and perpetual sovereignty, provided that the United States are equally disposed, on their part, to

cede in the same form to His Catholic Majesty that part of Louisiana which is situated to the west of the Mississippi, and is the territory which lies between said river and the well-known limit which now separates, and has separated Louisiana, when France possessed it before 1764, and even before the death of the King of Spain, Charles II., from the Spanish province called Texas; so that, after these reciprocal cessions are verified, the course of the river Mississippi, from its source to where it discharges into the sea, will be the only limit of the dominions of His Catholic Majesty, and those of the United States; and though the King could wish that, in the most southern part of said river, where it opens different branches or channels before discharging itself into the sea, the separating line might be continued through the principal channel which passes by New Orleans, yet His Majesty desiring, in all that depends on him, to facilitate the arrangement, it may be agreed and stipulated that the dividing line in the part where the Mississippi separates itself and flows into different channels shall be established towards the western part, placing it in the middle of the arm, or channel, called La Fourche, to where it discharges itself into the sea; all the delta, or ground of alluvion, situated on the east of said channel La Fourche, remaining in the power of the United States.

7th. As, by the eighth article of the Treaty of Utrecht it is declared that, for the future, all cessions, sales, or alienations of the Spanish territory in America, shall be null and of no value, Spain herself remaining without power to make them, and England obliging herself to aid the Spaniards, that the limits of their dominions in America should be established and maintained as they were before the decease of King Charles II., and as the part of the Floridas situated on the east of the river Perdido was a Spanish possession at the time of the decease of the said King Charles II., and therefore is comprehended in the said eighth article of the Treaty of Utrecht, it is not in the power of his Catholic Majesty to effectuate by himself the cession mentioned in the preceding article, without the previous consent and agreement of the Power or Powers interested in the fulfilment of the said Treaty of Utrecht; for which reason it will be indispensable, in case that the United States shall accede to the proposed arrangement, to solicit and obtain the said consent of the Power or Powers interested, and the derogation on this occasion, and for this sole purpose of the said article of the Treaty of Utrecht, which in all other respects shall hereafter remain in full force.

8th. It shall not be permitted that vessels employed in cruising and committing hostilities against the Spanish Government and vassals, or their commerce, shall be armed or enter armed in the ports of the United States; and the vessels and effects which such armed vessels may take from the vassals of His Majesty, and which may be carried into the jurisdiction of the United States, shall be embargoed and secured by the authorities of the same, and definitively delivered

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to the Minister or to the Consul of His Majesty who may be at the nearest place, to hold at the disposal of those who may prove that they are the legitimate owners. And for the purpose of preventing and prohibiting clandestine armaments, which may be made in contravention of this stipulation, the United States promise to give the strictest orders to the officers to whom it belongs to watch over and frustrate all attempts of this kind, the United States obliging themselves to detain all suspected vessels, without permitting their departure till the suspicions respecting them shall have been cleared up, or till they have given bonds to the satisfaction of the respective Consuls of His Catholic Majesty, guarantying that they shall not commit such piracies and aggressions against the vassals of His Catholic Majesty, who, on his part, obliges himself to do the same in the ports of Spain with respect to the United States.

9th. It being notorious that divers American citizens, in violation of the law of nations, and of the stipulations of the existing treaty, in its articles 9, 12, 14, and 16, have occupied themselves for some time past in hostilities against the Spanish commerce and subjects, under the pretext and cover of certain unknown flags; and that others, with equal irregularity, have carried and supplied arms, ammunition, and other aid to the rebels of some Spanish ultramarine provinces which are in a state of insurrection; several of the said citizens having gone to the extent of taking arms, and acting openly in support of said insurrection, His Catholic Majesty does not doubt but that the Government of the United States, disapproving of the conduct of the said individuals, and animated by a spirit of justice, and of a religious observance of the law of nations and of the treaty, will oblige itself, by an article of the present arrangement, to promulgate, and cause to be executed, decrees and orders, which may restrain and prevent such excesses in future; in which way, also, may be avoided the reclamations consequent on the injuries occasioned by the same excesses. And His Catholic Majesty, in just reciprocity, will oblige himself, on his part, to repress and prevent, in the same form, whatever excesses of the same or a similar nature his vassals may be guilty of, to the prejudice of the Government and citizens of the United States, or of their commerce.

The preceding articles or conditions fulfil, in my opinion, the proposed object, and embrace whatever is essential to terminate honorably, and with reciprocal utility, the pending discussions; for though there are some points of secondary and subaltern importance which ought also to be comprehended in the arrangement, it does not appear to be opportune to enter into them till we are agreed on the most essential articles; and these, if the case should happen to clothe them with due authority, we will draw out by common consent, explaining them with the clearness, exactness, and precision which is requisite in a transaction so important in itself and in its consequences.

By this communication which, pursuant to

your suggestion, I have the honor to make you as to the ideas of the Government of Spain, on an arrangement or settlement of all the pending points, you will acknowledge the disposition of His Majesty to terminate, in a manner satisfactory and reciprocally useful, the differences which have arisen; but if the American Government, or you, who have been pleased to manifest to me that you are instructed in its intentions, should not find, in this project, the reciprocal utility which Spain has believed to exist in it; in this case the King, constant to give proofs of the rectitude of his intentions, proposes, in the same spirit, another just, honorable, and conciliatory method, which the good faith of the American Government cannot decline; for it is that which is commonly adopted by civilized nations when they proceed with a sincere intention to settle, in a friendly and impartial mode, their differences. This mode, by which will be also avoided the inconvenience pointed out by the American Secretary of State to the Minister, Onis, arising from the difficulty of overcoming, in discussions, the attachment and tenacity of each party to its opinions, and to the pretensions which they have already advanced, is no other than to submit, on both sides, the points in question, and the grounds of them, to the examination and impartial judgment of one or more Powers friendly to the United States and to Spain, chosen by common consent, and who shall definitively decide upon the justice and extent of the pretensions of both Governments; to which end there shall be sent by the United States and by Spain commissioners to inform the Power or Powers chosen for arbitrators of their respective rights, each engaging in advance to abide by their decisions; or otherwise that, by common consent, they (two parties) should solicit the mediation of one, two, or more Powers, friendly to both, that by means of this impartial intervention we may arrive at the desired arrangement. The United States cannot but acknowledge the propriety of this proposal, which, besides that it carries with it the character of good faith, is substantially the same which, in a similar case, the American Government has adopted for the deciding of points of the same nature, in the articles 4, 5, 6, and 7 of the treaty concluded at Ghent on the 24th December, 1814, between the United States and Great Britain.

I persuade myself that in all I have said you will see, and your Government will also see, evident proofs of the real desires which animate His Majesty to live in harmony with the United States, establishing for the future an order of things of a nature to avoid the easy reproduction of motives of disagreement. I hope that you also, in the disagreeable event of not considering yourself to be sufficiently authorized to conclude with me here the desired arrangement in the sense of the articles stated, or to agree to the decision by arbitration, or to the mediation which I have proposed, in reporting to the Government of the United States this communication, will think fit to support it with the observations which your known earnestness to promote the harmony and



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prosperity of both countries will dictate, so that Don Luis De Onís, to whom will be sent instructions analogous to the principles of justice and mutual convenience which I have laid down in this letter, may find greater facilities for arriving at the desired object, and thus we may both see established, upon solid and permanent ground, harmony between two nations which have the greatest interest in preserving it, and none in leaving seeds of discord, produced rather by unfortunate circumstances than by the intention of their respective Governments.

I cannot conclude this letter without manifesting to you another signal proof of the friendly dispositions of His Majesty towards the United States; and that is, that the re-establishment of the *statu quo* of 1792, and the annulment of various innovations and political changes, introduced by the abhorred tyrant of France in the epoch of his fatal domination, having been acknowledged by all the Powers as a base to secure the peace of the world; and, on the other hand, it being evident the artifice with which he (Napoleon) forced from Spain Louisiana, under pretext of an illusory exchange, as also the promise which he made, and soon after broke, not to alienate that colony; the King, my master, notwithstanding these considerations, and that neither the kingdom of Etruria, nor any equivalent for Louisiana, dismembered from his dominions, has been secured to him, or for the other sacrifices made at the same time, has abstained from making any demand on this point, on the ground of the *statu quo* of 1792; on the contrary, is disposed, if the United States desire it, to renew, by an express article of the convention, in which the pending questions shall be settled, the past stipulations respecting Louisiana, correcting by this means whatever defect they might have been affected with in their origin.

I profit of this occasion to renew to you, &c.  
JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 19, 1817.

SIR: I have had the honor to receive your excellency's letter of the 17th instant, in which you are pleased to communicate to me the outline of such a plan of adjustment of the several questions existing between the two Governments as you believe to be well calculated to effectuate our common object of restoring a perfect good understanding, and laying a foundation for perfect harmony.

As, in my notes of 19th and 29th July, I have fully explained to you the absolute impossibility in which I have been placed, by the transfer of the negotiations to Washington, of entering with you into regular discussions, and as your excellency has well understood, and had due consideration for the motives which have determined the course that I have observed in this respect, I might with propriety now confine myself to the merely assuring you that I am not able to accede to the basis which you have proposed, and, taking

that basis as the result of the deliberations of His Catholic Majesty's cabinet, to the expression of my very sincere regret that it differs so widely from what would be reasonable in the view of my Government, I might add, that even if I were authorized anew to engage in these discussions, your excellency's project would scarcely offer me a hope of coming to such an arrangement as might satisfy the just expectations of the United States; for, as appears to me, in its leading features, it does but formalize the views more loosely exposed by Mr. Onís, on which the opinion of my Government has been already pronounced.

Nevertheless, I am induced, by the manner in which your excellency has stated the pretensions of Spain as well as by respect for your personal character, to make a few remarks upon the chief articles of your project, that you may thus be the more completely convinced that it is out of my power to adopt it, and in the hope that your dispositions to conciliation may induce you to model your instructions to Mr. Onís on a plan altogether different.

And, first, permit me to correct a misapprehension in which your excellency seems to have fallen with regard to my note of August 26, 1816, to your predecessor. You think that I have therein acknowledged that occurrences which have passed since the negotiations at Aranjuez, in the year 1805, have considerably altered the state of the question on nearly all the points of controversy. In the commencement of that note, after announcing the disposition of the President to enter into arrangements which should lay the foundation for a lasting good intelligence between the two countries, I informed Mr. Cevallos that I was "specially instructed to discuss and to settle" all causes of misunderstanding, as well of ancient as of recent date. I then proceeded to state the principal points on which I was so authorized to negotiate, and, finally, more concisely to enumerate those before alluded to as of recent date; it was my intention to show that the causes of complaint had multiplied and been aggravated, but not that the state of the question on the points which had been previously discussed at Aranjuez had been thereby altered; nor can I now see, in the circumstances particularized by your excellency as grounds of complaint on the part of Spain, any reason for assent to such an opinion. The claims of Spanish subjects on the American Government, and of the Spanish Government, for excesses committed by individual citizens, which you advert to as posterior to the convention of 1802, I was wholly unaware of. Your excellency will thus perceive that it were impossible for me to accept of your first article, providing for a species of claims never before brought into view, and for others of a nature entirely novel; hence I may abstain from any remark on the new and difficult mode of forming a commission by the second article. But much less could I pretend to engage my Government, as proposed by your fifth article, to relinquish its claim on Spain for indemnities on account of French spoiliations within her jurisdiction—a claim in its

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nature so indisputable—and, in lieu of it, resort to the hopeless resource of asking compensation from the French Government, which, as you state, has declared that same claim to have been already satisfied.

With respect to the very important question of limits, your excellency observes that, since the discussions at Aranjuez, this Government has accumulated documents, as well French as Spanish, more especially respecting the western boundary of Louisiana, which render that line susceptible of the most exact and rigorous demonstration. Your excellency has not defined exactly the line so made out, nor can I pretend to have an opinion respecting these new proofs, which I have not seen; but I ought to presume that they have been long since communicated to His Majesty's Minister in America, and that he has derived all the utility from them which they are capable of affording; nevertheless, I have not observed the effect of them in the various communications of that Minister to the Secretary of State of the United States, wherein the question of boundaries is discussed or touched on; and your excellency must have seen, in the Secretary of State's letter to Mr. Onís of June 10, 1816, to which, in my note of 29th July, I took the liberty of requesting your particular attention, that the claims of the United States as to the western boundary are not only reasserted in such a way as to show that they have not been affected by any new evidence which has been produced, but that, in the same letter, to avoid the useless repetition of reasoning which had not been shaken, express reference is made to the notes of March 8th and April 20th, passed at Aranjuez in the year 1805. Your excellency will perceive, also, by the Secretary of State's letter to Mr. Onís of January 14th of this year, that, even down to that date, no change of opinion had been effected by whatever, either in conversation or by writing, Mr. Onís had been able to advance in favor of the pretensions of Spain on either boundary; on the contrary, that then the discussion was closed, from the utter impossibility of coming to an agreement on the subject.

Hence, your excellency will see how little in my power it can be to accede to your sixth article, founded on the supposition that the United States own but a comparatively small territory on the western bank of the Mississippi, but which, in fact, requires a cession of that vast extent which lies between the Rio Bravo and the Mississippi, in exchange for what His Majesty owns of the Floridas; and how still less possible it were for me to accept of that article, embarrassed with the conditions which your excellency would annex to it by the seventh, upon a plea which I never before heard of, and cannot now comprehend; for it appears to me that the reference which you would make is perfectly gratuitous. Your excellency speaks, I suppose, of that Treaty of Utrecht which was concluded July 13, 1713. I understand that the sole object of the eighth article of that treaty was to place the commercial relations between Spain and Great Britain

on the same footing which they had in the time of His Catholic Majesty Charles II. The more effectually to secure to Great Britain the advantages which she was to derive from that state of things, every extension of the French commerce in the Spanish American colonies is prohibited; and, consequently, any transfer of territory directly to her, or through any other Power to her, is also prohibited. The motion for this stipulation is very clearly expressed:

"Y para que la navegacion y comercio á las Indias Occidentales quedan mas firme y ampliamente aseguradas."

These are words of the treaty, and determine the construction which is to be given to the stipulation. Consequent on this, and in pursuance of the same object, was the obligation which England entered into to solicit and aid ("solicitar y clara ayuda") with a view to restore the state of these possessions to what it was in the time of Charles II. If, perchance, they had undergone any dismemberment since that period, her obligation does not go further.

"Si acaso se hallare que en algun modo, y por algun pretexto, hubieren padecido alguna desmembracion y quiebra despues la muerte de dicho Rey Catolico Carlos Segundo."

Thus the purpose of this eighth article was nothing more than to place the commerce of the colonies, in as far as Great Britain and France were concerned, upon its former footing, and the territorial possession in the state it was left in by Charles II.; the obligation of Great Britain on this latter point ceased, of course, as soon as the object of it was attained.

With respect to the eighth and ninth articles of your excellency's project, I will only observe that no stipulations can be necessary. The United States have done, and continue to do, all that their neutral position and good faith can require; and where the existing laws of the country have been insufficient, there new provisions have been enacted, as you have seen by the law of Congress of March 3d, (called "An act more effectually to preserve the neutral relations of the United States,") which I have had the honor to communicate to you.

As to the alternative which your excellency proposes, on the supposition that your plan may not be acceded to, of referring our differences to the arbitration of other Governments, it is certainly unnecessary for me to assure you that I have no powers or instructions which can authorize my speaking on the matter.

Having, as I trust, now said enough to convince your excellency that your proposals are wholly inadmissible, I refrain from a variety of other observations which your letter has naturally suggested, desiring not to agitate questions which are only fit for discussion where there is a possibility of eliciting from it the grounds of accord.

I renew to your excellency assurances of my distinguished consideration.

GEORGE W. ERVING.

DON JOSE PIZARRO.

*Relations with Spain.**Don Jose Pizarro to Mr. Erving.*

PALACE, August 31, 1817.

SIR: At the same time that I received your esteemed note of the 19th of this month, I received your private note of the 23d. By the first, I have seen with pain that you not only do not think that you are authorized, since the transfer of the negotiation to Washington, to enter into a methodical discussion of the questions depending between our Governments, but you do not deem admissible by you the project of arrangement which, to comply with your desire, I presented in my note of the 17th; and, finally, that you can say nothing as to the arbitration or mediation which I have at the same time proposed as the most sure means of terminating, in an honorable and conciliatory mode, the existing differences. In my opinion, it were easy to combat and to dissipate the objections which you are pleased to make to my said proposals; but, in the actual state of the business, it has appeared to me more proper to hasten the departure of Don Luis Noeli, with suitable instructions for the Minister of His Majesty in the United States, founded on the knowledge of the respective rights, in considerations of reciprocal utility, and in the desire of an arrangement by honorable, impartial, and conciliatory means. His Majesty hopes that the Government of the United States will do justice to his sentiments, and will be convinced of the rectitude of his intentions. As in your private note you are pleased to express a desire to know the exact day of departure of Don Luis Noeli, I ought to tell you that he will depart within four days, calculating from to-morrow, and that he will take charge of whatever commission you may put under his care, and execute it with the same punctuality as mine.

I profit of this opportunity to renew to you, &c.  
JOSE PIZARRO.

*Don Luis de Onís to the Secretary of State.*

DECEMBER 6, 1817.

SIR: The Message of the President embraces two particular points in the paragraph in which he announces the actual state of the political relations between Spain and the United States, of which I wish to have a precise and exact knowledge, to reconcile their true meaning with the sincerity and purity of the sentiments of which the American Government makes profession, in conformity with those which animate His Catholic Majesty, when he anxiously seeks all possible means of settling the differences pending between the two nations, and of strengthening his friendship and good understanding with the United States on a basis which, being confirmed by the most generous principles of good faith and mutual justice, may be lasting and unalterable, without leaving the seeds of discontent, or ground for fresh differences in future.

The two points I speak of are, first, what relates to Amelia Island; and, secondly, what concerns Galveston.

The President announces, in respect to the

first, that this island having been taken possession of by a party of people who belong to no country, or, if they have belonged to any, they have, by their conduct, forfeited all right of public consideration or toleration, they having established in the said island a place of refuge, scandalous by its piracies, and seriously prejudicial, by a contraband trade, to the United States, chiefly in what regards the clandestine introduction of negroes into the territories of the Union, and the carrying off or flight of others from the same country, his excellency has, therefore, determined to put a stop to this evil, and had given orders accordingly.

It is my duty to remind you, sir, that the expedition which took possession of Amelia Island was formed and armed at Charleston and Savannah, under the command of the adventurer, Sir Gregor McGregor, and wholly composed of citizens of this Republic, in violation of the laws of the United States, the law of nations, and the existing treaty between Spain and the said States. I denounced this expedition to you at the time, and invoked the efficacious authority of the Federal Government to prevent it, and punish the offenders. The expedition proceeded, notwithstanding, from the limits and ports of the Union, to invade that island, and there committed the excesses on which the President touches. After McGregor had left Amelia Island, the district court of South Carolina issued a bench writ to apprehend him wherever he might be found within the American territories. This writ could not certainly be issued without a legal evidence of the offence, nor could the offence be more enormous or more notorious in the face of the whole Union. It results from this, that there could be no just ground of converting into an act of hostility, or of public detriment to Spain, the evils which have flowed from the toleration of similar armaments in the bosom of this Union—armaments which had for their object the invasion and plunder of the possessions of a friendly Power.

I therefore request you, sir, to be pleased to inform me of the measures the President may have taken on this point, and of his intentions in relation to it, in order that, by informing the authorities of the King in East Florida thereof, those discontents may be avoided to which an erroneous conception may give rise, and all unfortunate impressions dissipated, which might disturb the lively and sincere desire of conciliation and perfect harmony which actuates His Catholic Majesty.

On the second point, relating to Galveston, the President announces that, in that place, which it is contended falls within the limits of the United States in consequence of the acquisition of Louisiana, a number of vagrant persons had before established themselves, and committed acts of piracy very prejudicial to the trade of the United States; and that, therefore, his excellency had also taken measures to correct those abuses.

There are two things which I have to remark on this point. The first is, that the place of Gal-

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veston has not been, nor ever could be, within the limits of Louisiana, because at no time did it make a part of it. It has constantly belonged to the dominions of the Crown of Spain as a territory absolutely unconnected with and distinct from Louisiana, and, as such, ought to be maintained and respected, until the United States produce documents which establish their rights, and annul the titles, until now undisputed, of property and possession on the part of Spain, from the earliest times of its discovery and conquest unto the present; and this will be determined, as there may be occasion for it, and may be just, at the time of amicably arranging the question of boundaries between the two nations, as His Catholic Majesty sincerely and earnestly desires, and as I have the hope to verify in a short time, in his royal name, by means of the negotiation which we have established.

The second thing which I have to recall to you is, that the King's troops drove off from Matagorda the vagabond freebooters who had taken possession of that point; in consequence of which the same adventurers were forced to evacuate Galveston, where they had also established themselves, so that neither of these places was afterwards attacked or infested by them or any other banditti. Moreover, if, by the occupation of Galveston at that time, the United States have sustained injuries, it is notorious that Spain has suffered much greater by the facility afforded to the pirates in capturing Spanish vessels, carrying them into that place, and there selling them to the citizens of this Union; that, from this magazine of plunder, they conveyed the Spanish property to New Orleans and other parts of the United States in American vessels, as is well known to you, sir, and to all the world. In any event, when the injuries reciprocally caused to American citizens by the Government or subjects of Spain, or to the latter by the Government or citizens of the United States, are compared or estimated, such an indemnification will be stipulated as is agreeable to justice and good faith.

These remarks, and others equally obvious, cannot fail to convince you, as I am sure they will convince the whole world that there was not the smallest motive of proceeding to acts of violence on either of the two points which form the subject of this note, and on which the President has touched in his Message. I hope that the intentions of his excellency will not differ from this opinion; and, as well to avoid the disagreeable consequences which might arise from a misunderstanding, as to communicate to the King, my master, the true state of things, I have to request of you, sir, as I now do, a precise and satisfactory explanation on the above-mentioned two points, namely, of the measures taken by the President in relation to them, and of his intentions upon the subject. I flatter myself that you will have the goodness to give me the said explanation as speedily as the case requires; and, in the meantime, allow me to renew the assurances of my high consideration and respect.

LUIS DE ONIS.

*The same to the same.*

DECEMBER 10, 1817.

SIR: Although I have but just arrived at the Federal city, as you know, I would not have lost an instant, after assembling the principal papers and documents relating to the differences pending between His Catholic Majesty's Government and that of the United States, in resuming and continuing with you, to definitive conclusion, the negotiation which, by fortuitous causes, was suspended in the beginning of the present year, if I had not hoped to give you time for being so far disengaged as to be able to devote to these important concerns all the attention they require. But I ought no longer to defer, on my part, the necessary steps to open communications of such high interest, and consequently to proceed with you to the settlement and amicable arrangement of all the points in dispute between the two Governments.

You will doubtless have been convinced of the impossibility in which I was placed of commencing this negotiation last Winter, by reason of my not being furnished with instructions suitable to the new character which ulterior circumstances had given to it, and my not having then received from my Government such as extended to this case. I despatched the secretary of this legation to Madrid to lay this deficiency before my Sovereign, and the difficulty under which it placed me of entering into a negotiation which might effectually restore the most perfect harmony between the two Powers, by putting an end to all disputes by means of a solemn transaction, which, being founded on the principles of mutual justice, and combined in good faith with those of reciprocal utility and convenience, might be completely satisfactory to both Governments and both nations. His Majesty, filled with the greatest concern on seeing that, by this unexpected accident, the negotiation was delayed, notwithstanding his most sincere and decided wishes to conclude it, and strengthen his friendship and good understanding with the United States, as he had manifested from the moment of his restoration to the throne, gave immediate orders that the necessary instructions should be communicated to me for the execution of this sovereign trust in its fullest extent; and to omit no means, on his part, which might accelerate the desired epocha of this arrangement and definitive transaction, he, at the same time, caused to be proposed, by his principal Secretary of State, to the Minister of the United States at Madrid, a project for the said transaction; but it not having been admitted by that Minister, who said that he was not authorized to resume and terminate in Spain the negotiation already transferred to Washington, and committed to me, the aforesaid secretary of legation returned without loss of time, and brought me the suitable instructions, accompanied with the positive orders of His Majesty that I should omit no means, as far as might be compatible with justice and the honor of his august character, to settle and terminate amica-

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bly all pending differences, and generously to satisfy the United States in everything which might depend on the free will of His Majesty.

Such are the dispositions of the King, my master, and such the orders which he has communicated to me, anxious as he is to adjust all differences with the United States, and give them solemn proofs of his high esteem and sincere friendship.

I am ready, therefore, to resume the negotiation, and to pursue it with you in all the points embraced by it, until its final termination; and I shall be very happy if, in doing so, I can satisfy all the desires and just hopes of the United States.

In consequence, I request, sir, that you would be pleased to inform me when you are ready to enter into this important negotiation, and when it will be agreeable to you that we commence the preliminary conferences; or, in case you should consider them unnecessary, that we discuss the means of agreeing on and fixing the most simple, expeditious, and suitable mode of proceeding, with all possible despatch, to the settlement and final adjustment of all the points in dispute.

I await your answer to this note, animated by the most lively desire and the most flattering hopes of terminating all disagreements and discontents between two nations which, by their mutual interests and the generosity of their sentiments, have always lived in perfect union and friendship, and ought to cement them more and more for their common happiness.

In the meanwhile, I renew to you my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE, Dec. 16, 1817.

SIR: I have had the honor of receiving your letter of the 10th instant, and shall be happy to receive you at the office of this Department the day after to-morrow, at one o'clock, to confer with you upon the subject of it. I am instructed by the President, on this occasion, to assure you of the satisfaction with which he has learned that you are furnished with instructions from your Government adequate to the adjustment of all the differences between the two countries, and of the earnestness of his desire that the negotiation may terminate in an arrangement mutually satisfactory. I am, &c.

JOHN QUINCY ADAMS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, December 29, 1817.

SIR: After I had informed you in my note of the 10th of this month, and confirmed the same in our conference on the 19th, of the frank and friendly dispositions of His Catholic Majesty's Government towards that of the United States, of his sincere desire to settle and terminate the differences pending between the two Governments in a manner just and satisfactory to both,

and the positive orders I had received, with suitable instructions to that effect, I also acquainted you that the King, my master, being disposed to oblige the United States in whatever might be compatible with the rights and honor of the monarchy, and the dignity becoming his august character, would condescend to cede the two Floridas to this Republic, in consideration of an exchange or equivalent which might be useful or convenient to Spain. But as this exchange or equivalent must consist of a territory belonging to the United States, and which may offer invariable points, marked by nature, to fix the divisional line between the possessions of the Union and those of the Crown of Spain in a manner never to admit of doubt or controversy hereafter, His Catholic Majesty caused certain proposals for the said exchange or equivalent to be made through his principal Secretary of State to the Minister of the United States at Madrid. They were decidedly declined by him on the ground of their being inadmissible; and I was informed by you that they are so considered by your Government, and that, consequently, it is necessary to have recourse to others which may be admissible in the existing state of things.

Although the proposals made by His Majesty's principal Secretary of State to the Minister of the United States at Madrid were neither absolute nor invariable, it is easy to perceive that they are founded on the perfect conviction of His Majesty as to the irrefragable and notorious rights by virtue of which the Crown of Spain has possessed both Floridas since she acquired them of England, and also the provinces and districts of country possessed by her to the westward of Louisiana, and which have ever been independent, or absolutely unconnected with and separate from that province, without having ever passed, since their discovery, conquest, and possession, under a foreign dominion. But as the United States, since their acquisition of Louisiana, conceive they have a right to a greater extent of territory, both to the eastward and westward thereof, by setting on foot a dispute respecting the boundaries which separate them from the Spanish possessions, and pretending that they ought to include part of those possessions, it is not strange that the exchange or equivalent proposed for the Floridas did appear inadmissible. It has, therefore, become indispensably necessary to free this question of boundaries from all obscurity, and to adjust and establish the true points which divide, or ought to divide, the Spanish territories from those of this Republic. Unless this inquiry and deliberation be previously made, it is absolutely impossible to point out or judge of a just equivalent, which would be admissible and satisfactory to the two contracting parties, inasmuch as the requisite basis of a cession and its equivalent is wanting; this basis, as is obvious, must be laid in the valuation of the territory specified in the contract, which valuation must be preceded by establishing the territory belonging to Spain, and also that belonging to the United States.

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You cannot, therefore, but agree with me, sir, that it is absolutely necessary we should first settle the principal points relative to the question of boundaries, before we proceed to form and offer proposals for the cession of the Floridas, and for an equivalent to their value or estimation, or for the general and definitive settlement of all pending differences. Although this matter has already been the subject of negotiation at Aranjuez, it cannot be said that the discussion should be considered as terminated or exhausted, or that the American Government having then stated its positions and opinions on the subject, it will not depart from them, although the opinions His Catholic Majesty sustains be different. It is unquestionable that, in the discussion entered into at Aranjuez, and early interrupted, not a single point or ground was touched on, on the part of the United States, that could serve as a support to their pretensions; and that, on the part of Spain, there were produced titles, dates, documents, and arguments, incontestably proving, by abundant and irresistible evidence, the rights of the monarchy to the territory in question—rights founded on property and immemorial possession, acknowledged by different Powers, and never disputed by any. This affair is, consequently, not confined to points of opinion, on which each party may respectively maintain that which is best suited to it; it is reduced to unalterable truths and positive and certain facts. I assure you, sir, in the name of my Government, and the King, my master, solemnly promises it on the inviolability of his royal word, that the moment it shall be shown and proved that any of the territories now in dispute do *not* belong to the Crown of Spain, and, on the contrary, that they *do* belong to the United States, His Majesty will, with the greatest pleasure, surrender to the disposal of the United States such territory or territories as it shall be made to appear do not belong to the Spanish monarchy, and will, in good faith, acknowledge the right of the United States to the same. His Majesty wishes for nothing that is not his own, or to which his Crown has not a lawful right. I cannot but believe that the views of your Government agree with those I have just stated, and that, consequently, we ought to lose no time in immediately resuming the discussion commenced at Aranjuez as to what relates to its principal points, and, by impartially examining the grounds established by both Governments, and the arguments and proofs which they both have to produce anew in support of their rights or pretensions, acknowledge frankly and with good faith what belongs lawfully to Spain, and what belongs lawfully to the United States. Guided by the certain principles of reason and mutual justice, it will be easy for us, by means of this investigation, to form a settled opinion and come to a just result as to the boundaries which do or ought to separate Louisiana from the Spanish possessions, and thus terminate this dispute. That which is connected with the question of losses and injuries is still more simple and easy to arrange, as you admitted when we

conversed on that point in our late conference; and it will, therefore, prove no obstacle to our agreeing on the cession desired by the United States, and proceeding to it by means of a final settlement of all pending differences, which may, at the same time, embrace whatever may be stipulated by this particular agreement.

You may perceive, sir, that the mode I propose is the most simple, just, and proper for accomplishing the negotiation to be entered upon, and is that which was adopted by Mr. Erving, the Minister of the United States, in his note of the 26th of August, 1816, in which he informed His Majesty's Government that he was ready to enter into a full and frank discussion of all the points in dispute, and pledged himself thereto. As nothing further has since been done on the part of Spain than to transfer the negotiation to Washington, the same reasons subsist which then dictated the incontestable propriety and necessity of resuming the discussion; reasons of which you are doubtless fully convinced, as they are not to be combatted by any explanations when examined with good faith, because they are self-evident, and identified with the soundest principles of justice.

As, in consideration of these reasons and principles, I hope you will have no objection to agree to a succinct examination of the question of boundaries, and to a rational and fair inquiry into the titles and grounds on which each Government rests its rights and pretensions, the natural order seems to require that we should begin this examination and inquiry with what relates to the eastern boundaries of Louisiana; that, after establishing them as they ought to be, we may proceed to examine and establish, in like manner, those which regard the western; it being, nevertheless, well understood that neither by this act, nor any one whatever of those which contribute to produce the present negotiation, it shall be inferred that His Catholic Majesty renounces, in any manner, the right he has, or may have, to reclaim against the non-fulfilment of the Treaty of St. Ildefonso, concluded between Spain and France in the year 1800, and against the solemn stipulations contained in the additional articles of the same treaty, forming an essential part of the contract between the two nations.

The boundaries of Louisiana, on that side, join those of West Florida, and are so precisely established and fixed by public treaties, that I do not think your Government can still persist in the opinion that Louisiana ought to be extended by this Spanish province to the river Perdido. If, however, the imagination, resorting to specious subtleties and abstractions, carries us back to the period when France formed settlements on the left of the Mississippi, and possessed what are now two distinct provinces, namely, Louisiana and West Florida, still the certain and incontestable fact will follow, that Spain acquired neither of the Floridas from France. That Power, while in possession of those territories, as she was until 1763, might name them,

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and point out their respective limits as she thought fit. That is quite unimportant to the present question. It is certain that, by the treaty of 1763, France ceded to England all the territory possessed by her to the eastward of the Mississippi, with the exception of the island of Orleans; and it is also certain that England united, as her own, from that year, the same territory to Florida, which, by the same treaty, Spain had ceded to her; and that, having added thereto the district and port of Pensacola, she called it West Florida, by which name, and no other, it has ever since been known. In the war of 1779, Spain conquered the said territory of West Florida from England; and this right of conquest was afterwards secured by a solemn treaty between England and Spain, in September, 1783. It is by this title that West Florida belongs, until the present day, to Spain, in addition to East Florida, which was also ceded by the said treaty. It is evident, then, that Spain neither acquired nor received from France either of the Floridas, but that she acquired them both of England in 1783, classed as two distinct provinces, and universally known by the names of West Florida and East Florida. She has, from that period, possessed them separate and distinct, without having ever confounded either of them with Louisiana, either in whole or in part. They are laid down distinct and separate in the maps, charts, and geographies of all nations, from the year 1763 to the present day. In all the public acts and instruments which speak of them, they appear distinct and separate, as they do in the different treaties in which they are mentioned.

This being the case, how can your Government still maintain its opinion? The United States acquired Louisiana from France such as she had acquired it from Spain by the Treaty of St. Ildefonso. In this treaty nothing is stipulated but the retrocession of Louisiana; nor is there a single word in the whole treaty that bears the most distant allusion to West Florida, which is the object to which the dispute is reduced in that quarter. The clauses of the treaty are clear, precise, and conclusive; they fix the sense of the stipulation invariably, and leave no room for vague or specious constructions. The very title given to that treaty by the contracting parties at once pointed out the territory restored by Spain to France in exchange for the kingdom of Etruria. The title says, "Retrocession of Louisiana;" and the word "retrocession" has not, nor ever had, any other signification, in the Spanish or French language, than the act of restoring to an individual, or a nation, that which had before been received from him or from it; so that a different signification cannot be given to this word (adopted by the contracting parties to express the nature of their stipulation) without changing the proper and genuine acceptation, in both languages, of the definite term they have respectively employed, and without substantially changing the intentions which serve as the basis of the contract.

The three clauses by which they afterwards go

on to fulfil this convention agree perfectly with the said title, and, by supporting and explaining each other, they fix it in a clear and precise manner. The first clause says: "that His Catholic Majesty restores Louisiana to France, with the same extent it had when possessed by Spain." It is well known that no part of the Floridas, or other Spanish possessions, was then included in Louisiana, or annexed to it. At that time Louisiana was, in the hands of Spain, precisely what it was when ceded by France, in virtue of the treaty of 1764. In the same treaty its eastern boundaries are marked by a line running eastward from Manchac Point, thence following the course of the river Iberville, and dividing the lakes Borgne, Pontchartrain, and Maurepas, and finally terminating at the Gulf of Mexico, without leaving the smallest doubt as to the true points of the frontier. This is the territory which Spain retroceded to France, because it is the only one which she possessed under the name of Louisiana. The second clause agrees with the first, and opportunely declares and fixes its import. It says, "and with the same extent it had when possessed by France"—expressions which necessarily refer to the period of time which intervened between the cession by France to England of the territory possessed by her on the left bank of the Mississippi, and the cession made by the same Power to Spain of Louisiana. As the first of these two cessions took place in the year 1763, and the second in 1764, it is evident that, during that interval, France possessed Louisiana in the manner stated. And with the same extent did she cede it to Spain; nor could she cede it with more, as she then possessed nothing more in that part of the American continent.

If a different meaning be given to this clause, by supposing that the contracting parties allude in it to a former period, when France possessed Louisiana jointly with the territory ceded by her to England in 1763, it would place this clause in absolute contradiction with the title, and with the first clause of the treaty of retrocession; because Louisiana not having, prior to the year 1763, while in the hands of France, the same extent it had when in the hands of Spain at the time of the treaty of 1800, nor the same that it had when ceded by France to Spain in 1764, it follows that the second clause would be absurd and unmeaning if it alluded to a period of time anterior to 1763. It would be absurd and unmeaning, because, having no other object than to explain and determine more circumstantially the first clause, which is the fundamental one of the treaty, and that which governs the other, it would express a thing which could in no wise agree with the stipulations contained in it; since, by giving greater force to the import of the second clause, that which is considered the fundamental basis of the first would be rendered false and erroneous. It would be absolutely contradictory to the express object and intent of the treaty, since Spain not having received Louisiana from France with the extent in which she possessed it prior to the year 1763, but with that

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which it had when it was ceded in 1764, the retrocession, which, as I have just said, is the express object and intent of the treaty, could not take place. Spain could only cede back to France what she had received from her; nor could she, moreover, add to the retrocession any other particular territory of her dominions, without expressing or mentioning it. Louisiana was ceded back to France such as it was received from her, and as she possessed it in 1800, and had possessed it since she had acquired it. In fact, if Louisiana, while in the hands of Spain, included no part of West Florida, and if Spain had received no part thereof, or of the other Florida, from France, how could she cede it back to France, or cede it without naming it, or saying a single word which could allude to this idea? Let us therefore agree that it is impossible to give an arbitrary construction to the second clause of the Treaty of St. Ildefonso, or any other than that which it has, and ought to have, in connexion with the first clause, and with the title and the express object of that instrument. You cannot but be fully convinced, sir, of this truth; and on proceeding to the examination of the third clause, you will find what I have just stated still more comprehensively and clearly demonstrated. This clause says: "and as it ought to be after the treaties concluded between Spain and other Powers." The only treaties to which this clause could refer were the following:

1. That of 1764, by which France ceded Louisiana to Spain. In this treaty the eastern boundaries of Louisiana are marked by the course of the Mississippi, and next by the river Iberville, the lakes Borgne, Pontchartrain, and Maurepas. It was consequently proper here to recall what was set forth in this treaty.
2. That of 1783 between Spain and England, by which the latter confirmed to Spain the possession and property of West Florida, which she had conquered during the war, and ceded to her East Florida. It is a very fit moment to recall the inviolability of this treaty, since it is evident, from it, that the Floridas are two provinces independent of Louisiana, absolutely unconnected with and distinct from it; and that they came into the possession of Spain by very different titles; in consideration of which, one thing cannot be confounded with another. And the 3d is that of 1795, concluded between Spain and the United States. As in this treaty the frontiers between the United States and the Spanish possessions are described, and the Floridas are named as provinces notoriously unconnected with and distinct from Louisiana; as by it the dismemberment of Natchez, Nogales, &c., was effected; and as it is therein stipulated that the navigation of the Mississippi shall be free to the Americans and Spaniards, and a place granted in favor of the former for their commodities on the banks of the Mississippi, for which purpose New Orleans was designated for the term of three years, it was consequently thought proper to refer to this treaty, and show that it, as well as

those of 1764 and 1783, is, and ought to be, in full force and effect.

You will perceive, sir, that the three clauses stipulating the retrocession of Louisiana to France cannot be more conclusive; that they are properly connected with and support each other by declaring and explaining the intentions of the contracting parties, and the precise nature and extent of their contract; so that it is impossible to give another interpretation to any of the said clauses, as that would place them in contradiction with each other, and would, moreover, obscure the evident truth of facts, and involve a monstrous violation of public treaties, without excepting that of 1778 between France and the United States. You doubtless bear in mind, sir, that, by the sixth article of that treaty, France solemnly engages never to acquire West Florida, or any portion of the territory ceded by her to England in 1763. How, then, could she, in 1800, acquire West Florida, or any part of it, even although the Treaty of St. Ildefonso were not specifically and solely confined to the retrocession of Louisiana, such as it was at that time, and as it had been since 1764? The understanding rejects all doubt on points so clear and evident. By the Treaty of St. Ildefonso, France herself only received Louisiana such as it was in the hands of Spain, and as it was after its cession by France. It is well known that it is the act of delivery which completes the contract. France was satisfied with what was delivered to her, and neither claimed nor pretended to anything more. Would the French Government, under Napoleon, have failed to claim this additional territory, if, in that treaty, there had been found a single word of which it could avail itself, or the smallest pretext for making the claim? Certainly not. France knew perfectly well that Louisiana did not comprehend a greater extent of territory, and that all was delivered that belonged to her at the time the contract was made.

The French Government itself, after the dispute arose between the United States and Spain, which is now pending, declared, in two official notes, "that the eastern boundaries of Louisiana are pointed out by the course of the Mississippi, and by the river Iberville, and the lakes Pontchartrain and Maurepas; that Spain has ceded back nothing more to France, nor had the latter a right to pretend to more; and that, having substituted the United States in her rights, they could pretend to nothing more in virtue of the cession or sale made to them of Louisiana."

*"The 12th of Fructidor, 12th year.*

"The eastern boundaries of Louisiana are pointed out by the course of the Mississippi, and afterwards by the river Iberville, the lakes Pontchartrain and Maurepas. This is the line of demarcation which bounds the territory ceded by Spain to France, by the treaty of the 30th of Ventose, 9th year. Nothing beyond this limit would have been asked for by France; and as she did nothing more than substitute the United States in the rights which she had acquired, they



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cannot require of Spain a more extensive cession, unless such cession be negotiated and stipulated between them and Spain by some further convention."

"*The 5th of Germinal, 13th year.*

"This question could not become the subject of a serious discussion between Spain and the United States, except the conditions of the treaties of cession, which have successively transferred Louisiana to France and the Americans, were lost sight of."

"Spain could only cede back to France the territory she had received from her: the rights of France were afterwards transferred to the United States, and they were so only to the same extent."

If, notwithstanding this full and irresistible demonstration, you should be of opinion, sir, that it is still necessary to clear up this point, let us have recourse to France, that she may afford all the explanations that are judged to be necessary or useful, since nothing is more proper than that she and Spain should know to what the treaty concluded at St. Ildefonso is reduced, and they alone are competent to clear up any doubts that may have arisen as to the import of the expressions employed in the said treaty. It is unquestionable that it agrees with the principle generally acknowledged, that when a law or treaty offers any doubt, from the obscurity or ambiguity of the words contained in it, the party which made the law or the treaty is the one which should explain the meaning of such words, and remove the doubt which has occurred.

I would now proceed to declare what are, or ought to be, the western boundaries of Louisiana, and what are those which separate, or ought to separate, it from the Spanish possessions, should I not apprehend to make this note too diffuse. Reserving myself, therefore, to discuss this point in a separate note, I now recall to your consideration the chief grounds and arguments on which Spain founds her exclusive right to the whole extent of West Florida, in order that, when we are agreed upon this point, we may proceed to a like examination and deliberation on the western boundaries of Louisiana.

But, although this is the order pointed out by reason and justice in the actual state of the pending differences, nevertheless, that we may judge, upon the most exact information, of the grounds and arguments of each Government, respectively, and, after agreeing on what belongs to Spain, and what belongs to the United States, we may be enabled to lay the basis of a general and final settlement of all differences, if you should think that there can be a more expeditious mode of settling and terminating them, without prejudicing the rights of the Crown of Spain, and on principles of reciprocal utility and convenience, you may communicate your ideas thereon to me, with the certainty that it is the earnest wish of His Catholic Majesty that this negotiation may be amicably terminated, for which purpose he has given me decisive orders and instructions;

and I again assure you, sir, that I shall think myself very happy if, in this negotiation, I can satisfy all the just desires and hopes of the United States, for which I shall omit nothing that is in my power, or may be compatible with the rights and honor of His Majesty's Crown.

I renew to you, sir, the assurances of my respects, and I pray God to preserve you many years.

LOUIS DE ONIS.

*Don Louis de Onis to the Secretary of State.*

WASHINGTON, January 5, 1818.

SIR: In my note of the 29th of last month, I proved to you, to a degree of moral demonstration which I think to be fully convincing, what are and ought to be the eastern boundaries of Louisiana; and I hope such incontrovertible, decisive reasons cannot fail to bring you fairly to acknowledge that Louisiana neither does nor can include any part of West Florida. As I have not yet received your answer to the said note, it was my intention to wait for it, and not proceed to the examination of the second point of the question of boundaries before we had agreed on and settled what relates to the first, in order to proceed methodically, and not to involve or embarrass the plain and expeditious course of this investigation; but being desirous of not losing an instant in explaining every point relative to so important a matter, I anticipate the examination of the western boundaries of Louisiana, which is the second point of the question, thereby facilitating whatever may claim your attention as to both in their respective order, and enabling you to comprehend the truth at once.

I might contend that the United States, having received the province of Louisiana from France with no greater extent than it had when France received it from Spain in 1800, and when Spain acquired it from France in 1764, that, and no other, ought to be the extent which properly belongs to it, without the necessity of recurring to any other reasons or grounds than those resulting from the Treaty of St. Ildefonso; since Spain having ceded back to France in 1800 only what she had received from her in 1764, being that which France sold to the United States, it is easy to investigate and establish what were, and in all that period continued to be, the proper extent and limits of Louisiana. But I am willing to admit that France did substitute the United States in all the rights or pretensions she had or could have at another period as to what regards the western boundaries of that colony when hers, although nothing to that effect is expressed or insinuated in the treaty between France and the United States, by which the latter acquired it; and that the contrary is evidently to be inferred from the fact that France inserted, word for word, in this treaty the conclusive clauses of that of St. Ildefonso, which speak simply and precisely of the *retrocession* of Louisiana. I admit (to go on to a more copious and irresistible demonstration) that the United States have succeeded to all the rights which France may

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have had at another period; and I call your attention, sir, to the following observations before I enter on the examination of the data or grounds on which the United States rest their claims of extending in that quarter the boundaries of Louisiana to the Rio Bravo del Norte.

It is well known that for ages before France thought of forming establishments on the Mississippi, and therefore long before she had made any in Canada, the Crown of Spain possessed the whole territory around the Gulf of Mexico, from the peninsula of Yucatan to the southern cape of Florida. If the eastern part of said gulf, as far as Panuco, the whole of which was then known under the extensive (*generico*) name of Florida, was not actually peopled by Spaniards, it is notorious and indubitable that it was discovered by them as early as the year 1511, under the expedition of Juan Ponce de Leon; that all the coast, from the present Florida to Panuco, was explored by Francisco de Garay in 1518, and also by Hernando de Soto, and continually by other Spanish commanders, until 1561, when it was explored and described by Angel de Villafane and Jorge Ceron; said discoveries and description having been made in pursuance of a royal order issued for that purpose, papers of that description being still extant; and it was confirmed that from those remote periods Spain was established as the mistress and possessor of all that coast and territory, and that she never permitted foreigners to enter the Gulf of Mexico, nor any of the territories lying around it, having repeated the royal orders by which she then enforced the said prohibition, and charged the Spanish Viceroy and Governors with the most strict observance of the same. The right and dominion of the Crown of Spain to the northwest coast of America as high up as the Californias is not less certain and indisputable, the Spaniards having explored it as far as the forty-seventh degree in the expedition under Juan de Fuca in 1592, and in that under the Admiral Fonte to the fifty-fifth degree in 1640.

The dominion of Spain in these vast regions being thus established, and her rights of discovery, conquest, and possession, being never disputed, she could scarcely possess a property founded on more respectable principles, whether of the law of nations, of public law, or any others which serve as a basis to such acquisitions as all the independent Kingdoms and States of the earth consist of.

Confining ourselves at present to the Mexican Gulf and to the Spanish provinces situated to the westward of Louisiana, we shall see in what manner Spain extended her population and founded settlements in different points of the vast territory of which she was the mistress and possessor in this part of the new world. All the country extending from the Rio de las Palmas to the confines of Panuco, in latitude forty-eight degrees, was then included under the name of Florida, and crossed the Mississippi. From the time of the expeditions undertaken to explore it in 1512 by Juan Ponce, in 1525 by Vasquez de Ayllon, in 1527 by Panfilo de Narvaez, and in 1538

by Hernando de Soto, the Spaniards were incessantly engaged in advancing their discoveries and settlements in this extensive country, not only in the time of Luis Moscoso and of Pedro Melendez, between the years 1542 and 1545, but they were constantly so in the time of all their successors. At the time of their first expeditions they landed in the bays of Santa Rosa and Espiritu Santo or St. Bernardo, surveyed the whole coast, and crossed the Mississippi. They penetrated into the countries of Hirrhigua, Moscoso, Umbaracuxi, Aurera, Ocali, Apalache, Altapalia, Cofa, Mobile, Chasquin, Guigate, Uhangue, Guachoya, and others, which it would be tedious to enumerate. The same Hernando de Soto, after having in person surveyed the coast and interior of the country, crossed the Mississippi, and penetrated as far as the Rio Negro, in 1542 died at Guachoya.

No European nation had yet attempted to disturb the Spaniards in their possessions in the new world; none had trod on any point of those territories; and the Spaniards continued extending their establishments, as the only nation which had acquired the possession and the property of that part of the American continent and islands. They gave rise to the new kingdoms of Leon and Santander in the year 1595, and to the province of Coahuila in 1600. They founded that of Texas in 1690, establishing missions, hamlets, and posts, under the name of presidios, such as those of Bahia del Refugio, St. Antonio, Espiritu Santo, St. Juan, Nacogdoches, Ayeses, and San Miguel de los Adaes, a short distance from the Rio Roxo, (Red river,) extending themselves to the banks of that river.

Long before, they had established themselves in New Mexico, where they built the capital of Santa Fe, in thirty-nine degrees north latitude, and opened and worked mines in its neighborhood. From thence they spread themselves wide of the rivers that empty from north and south into the Missouri, communicating and trading with the Indian nations; so that from that time Spain considered all the territory lying to the east and north of New Mexico as far as the Mississippi and Missouri as her property. These dominions and settlements of the Crown of Spain were connected with those which she had on the Gulf of Mexico, that is to say, with those of Florida and the coasts of the province of Texas, which, being on the same gulf, must be acknowledged to belong to Spain, since the whole circumference of the gulf was hers; which property, incontestably acquired, she had constantly maintained among her possessions, not because she occupied it throughout its whole extent, which was impossible, but on the principle generally recognised, that the property of a lake or narrow sea, and that of a country, however extensive, provided no other Power is already established in the interior, is acquired by the occupation of its principal points.

These premises being established, and not to be shaken, as they are all supported by history, ancient monuments, tradition, and irrefragable documents, let us proceed to examine for their

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origin the grounds on which your Government maintains its pretensions.

As early as the commencement of the seventeenth century, France and England began to form expeditions in imitation of the Spaniards, and to discover points for settlements in that part of America. The French expeditions penetrated into Canada by the river St. Lawrence, and those of the English were directed to different parts of the coast on the Atlantic. Hence originated the basis on which the two nations afterwards founded and extended their respective settlements. I shall now only speak of those made by the French, as they serve as a support to the actual pretensions of the United States. Francis Ribaut, an adventurer of that nation, had already penetrated into Florida with some followers towards the end of the sixteenth century, and built the fort called Charles le Fort; but this rash enterprise on the territory of the Crown of Spain was immediately overthrown and dissipated, the Spanish Governor, Pedro Melendez, having attacked and taken the fort, and made prisoners of Ribaut and all his people. Mention is likewise made by some writers of another Frenchman, called Rene de Laudoniere, who is said to have landed from the squadron of Admiral Coligny, on the coast of Florida, in the year 1564, and built a fort, which he named Carolin, about the spot where Pensacola now stands; but the same writers add that the Spaniards immediately attacked the French, put them to death, and razed the fort or redoubt they had built; others say that it was on that same fort that the Spaniards afterwards built the fortress of St. Augustine; so vague and so uncertain is the information respecting these particular adventurers. The story related of a Recollet friar, called Father Hennipen, is still more ridiculous, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St. Louis or Mississippi, of which he took possession in the name of Louis XIV., and gave it the name of Louisiana, (doubtless in his secret thoughts, and by a mere mental act.) It is added that this friar escaped from the Illinois, and returned to Canada, where he related all he had seen, and afterwards published it in France more circumstantially in a memoir, which he dedicated to the celebrated Colbert. These accounts, and others of a like nature, are contemptible in themselves, even though the facts they relate were authentic, since nothing can be inferred from them that can favor the idea started by those who speak of these transient adventures and incursions.

Let us see what importance can be attached to what is said of Bernardo de la Salle, who, in 1679, descended from Canada to the Mississippi, and there built Fort *Crevecoeur*, according to M. Du Pratz, or Fort Prudhomme, according to others. What is certain amounts to this: that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might

do, crossing the territories of another nation; that he returned to Quebec without any further result than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from whence he returned in 1684 with an expedition composed of four vessels, commanded by Captain Beaujeau, to explore the mouth of the Mississippi. This expedition entered the Gulf of Mexico on the 12th of December of the following year. La Salle, being deceived in his reckoning by the currents of the gulf, could not find the mouth of the river, and, being overtaken by a storm on the coast of the province of Texas, he was obliged to take shelter in the Bay of St. Bernard. Two of his vessels were captured by the Spanish cruisers, another was lost in the bay, and Beaujeau returned to France in the only one that escaped. La Salle, having landed with some people and ten pieces of artillery, then built a small fort as a protection against the Indians, and was obliged to change his ground three different times; notwithstanding which, the Clancoates Indians, inhabiting the adjoining country, forced him to abandon the fort, and to retreat by the Rio de la Trinidad (Trinity river.) While on this retreat, he formed a project of penetrating into the interior of the country, to see if he could discover the fabulous mines of Santa Barbara; but he was assassinated on his route by his own people; and such was the result of the famous French expedition so much talked of. The Indians fell immediately on Fort St. Louis, and massacred the small garrison left by La Salle. The remainder of the French who accompanied him shared the same fate, being dispersed in different directions after the fall of their chief, they perished by the hands of the Indians.

In the meantime news of this incursion having reached Mexico, the Viceroy, fearful of a repetition of similar attempts, held a council of war to deliberate on the affair, in obedience to the royal order issued by Philip II., enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico. An expedition was then resolved on, to be formed at Coahuila, under the command of Alonzo de Leon, to scour the country, and hunt out the French, if any were still remaining. Having set out with the necessary force, he arrived, on the 22d of April, 1689, at the place where La Salle had built Fort St. Louis, and on the 24th at the entrance of the bay, where he fell in with the remains of the French vessel that had been wrecked. Having heard in his march that some of La Salle's companions were still wandering about the country, or had taken refuge with the Indians, he shaped his course towards the nation of the Asimaïs, and was received by them with marks of friendship and respect. He, however, found no traces of the French, as no more of them were in existence.

Alonzo de Leon treated the Asmaïs with the greatest kindness, and called them *Texas*, which in their language signifies "friends." On the 22d of May, of the same year, he wrote to the Viceroy,

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informing him that there existed neither French nor any other foreigners in the whole country; that the Texas Indians possessed great attachment and good will to the Spaniards; and that it would be very proper to establish missions and garrisons throughout that country to prevent any future attempt or incursion of foreigners, and to preserve the conquest. This subject having been deliberated on in Mexico, the mission of St. Francisco de Texas was founded in 1690, after that nation had voluntarily submitted to the Crown of Spain. The Viceroy of Mexico continued to take effectual measures for protecting the country and preventing the intrusion of any French adventurers. The Court of Spain, on being informed of what had passed, renewed rigorous orders to the same effect, and also gave directions for the instruction and government of the Indians. Such were the objects of the expedition under Don Domingo de Teran, and of that which was effected under the command of Don Gregorio Salinas, in May, 1693. Since that period the province of Texas has continued in perfect tranquillity under the Spanish Government, and no further attempts were made by the French to penetrate into any part of it.

You see, sir, that the excursion of La Salle can give France no rights to that province, which had long before been acknowledged to be, and was, incorporated in the Spanish dominions. Such an excursion was, in fact, nothing more than the rash attempt of a foreigner to explore part of the territories of another nation, and is not substantially different from that made by Mr. Le Vaillant in the country of the Caffres, to the northeast of the Cape of Good Hope; by which, however, France acquired no right to that part of the Dutch possessions, although they were still desert when the said Le Vaillant explored them. What territories are there in the world, especially in extensive dominions still new and thinly peopled, in which excursions of that nature have not been made by individuals of foreign countries, sometimes of neighboring nations, (which is the most common,) and sometimes of those which, although at a distance, actuated either by curiosity or ambition, undertake to explore unknown countries, inhabited by other people and governed by other Powers?

Nor can I refrain from recalling here what has been written and thoroughly investigated touching the pretended settlement of the French in the Illinois and Arkansas.

Whether they were some of the individuals of La Salle's expedition who had survived it, as M. Du Pratz has it, or whether they were other adventurers from Canada, it seems beyond a doubt that some Frenchmen did penetrate as far as the Arkansas, towards the end of the seventeenth century, or the beginning of the eighteenth; on which point, however, the records of that period do not exactly agree. Enterprising people from Canada, both Frenchmen and natives, communicated with the Indian tribes, and penetrated far into the interior, to purchase cattle and for other purposes of traffic. Some of them, there-

fore, fixed themselves at the post of Arkansas, not as settlers, but as agents to carry on the trade between Canada and the natives of this district. The same took place at the post of the Illinois, long before the first foundation of the French colony of Louisiana was thought of.

Father Marquez, a Jesuit, had penetrated in 1671, as a missionary, into the Indian nation called Sauiteux, as far as Chagwanigung, on Lake Superior; and in the year following one Saliot, with a view to explore the Mississippi, proceeded from Canada to Chagwanigung point. After joining Father Marquez, they both advanced and succeeded in penetrating to that river by the Ouisconsin. They met with a considerable population in the country of the Illinois, at the mouth of the river Moingora; and after promising to visit them on their return, they suggested to those Indians the idea of entering the country by the river since called the Illinois; and the Indians did so, and settled in a district known by the name of the Great Rock, or Great Penasco, about five leagues higher up than the mouth of the river. Saliot and Father Marquez could descend the Mississippi no farther than the Arkansas; and on their return from their excursion they found the Illinois encamped at the Great Penasco. Saliot continued his retreat, and Father Marquez determined to remain with these Indians, to instruct them in the principles of the Christian faith. In this attempt he was succeeded by other missionaries, who afterwards proceeded to found a church there, sufficiently regular, composed of Illinois and Canadians who had met and united with each other; these people were nowise subject to the French Government, but lived independent, in the manner of several Indian nations bordering on the United States. Several other Indians of the Miami and Shawanee tribes came and settled themselves near the Big Rock, or Great Penasco, but they disagreed, and soon after dispersed. A party of the Illinois went down the river and settled at Cahokia, on the left bank of the Mississippi, fifteen or sixteen miles below the mouth of the Illinois. Other missionaries followed them; and thus went on this kind of colony, informal or wandering, but always independent of, and unconnected with the French of Canada.

Let us now speak of the settlement of the French in the country called by them Louisiana. The first spot occupied by them in this country was the bay of Biloxi, about thirty leagues to the eastward of the Mississippi, in the year 1699, or, more strictly speaking, in 1700; and Mobile, a little farther eastward, where they established themselves, was, during two-and-twenty years, the capital of their new colony. From that time they observed the greatest caution in the settlements they formed on the banks of the Mississippi. Seventeen years had passed since the foundation of their colony, when they ventured to raise some huts on the left bank of that river; and this was on the spot now occupied by New Orleans, which five years afterwards became the capital of the colony, when the intimate relations between France and Spain, not only by virtue of

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the family compact, but more particularly by the elevation of Philip V. to the throne of Spain, favored the toleration of a dexterous encroachment on a territory which was acknowledged to belong to that monarchy. In 1722 the French succeeded in fixing some German families on the right bank of the river, opposite to the settlements which they already had above and below the new city of Orleans. They afterwards settled some Acadians a little higher up, and finally some others at Point Coupée. But the whole limits of these cottages or settlements did not extend to more than fifteen or twenty acres of land upon the front of the river; so that the French, seeing a want of cattle, and feeling the necessity of establishing herds to keep up a supply, turned their views to the extensive and fertile prairies of Attakapas, and the Governor of Louisiana thereupon applied to the commandant of the interior provinces of Mexico for permission to establish some herds only, which was frankly granted to him by the Spanish commandant. In fact they had nothing more than cattle establishments in Attakapas and Opelousas, when the colony was transferred to Spain in 1764. They had never gone farther; and it is to the Spaniards that the colony is indebted for the extensive population and cultivation of that part of the territory afterwards ceded back to France, and transferred by her to the United States; as was also the case in the settlements of La Fourche, Avoyelles, the Rapides, and Ouachita, which did not previously exist, but were formed by the Spaniards within the proper limits of the monarchy.

From hence you will clearly see, sir, that so far from Spain having retained any point belonging to French Louisiana when she ceded it back by the Treaty of St. Ildefonso, she left incorporated with it many points, settlements, and territories, which in truth did not belong, nor ever had belonged, to the said colony.

It would be too fatiguing to trace, step by step, all the incursions of the French from Canada, or from Louisiana, into other points of the Spanish dominions, by passing through Indian nations or uninhabited countries. I cannot, however, omit touching on the accidental circumstance which gave rise to their settlement at Kaskaskia, twenty leagues below *Cahokia*. The inhabitants of Illinois, who had no connexion or dependence whatever on Canada, at length undertook to go down the river and trade with the French at *Biloxi* and Mobile bay; and these traders having discovered fertile and beautiful prairies on the right of the small river Kaskaskia, several of the French settlers removed thither in the year 1703, and founded what is now the town of Kaskaskia; but they always lived independent and in alliance with the Indians, until the Louisiana company sent M. de Boisbriant, as the King's lieutenant, with troops, to reduce and direct this settlement. It was afterwards considerably increased in the hands of the French, who successively formed the settlements of Chartres, St. Philip, Prairie des Roches, and Prairie Dupont, but still, as you perceive, sir, on the left of the Mississippi; and

it was not until several years afterwards that they settled St. Genevieve, opposite Kaskaskia, on the right of the said river—an inconsiderable settlement, which made no progress until the country was ceded to England.

In fine, all the written documents and historical evidence relating to French Louisiana agree in dividing it into Upper and Lower, and proving that Lower Louisiana is bounded on the north by bayou Manchac, by which it communicates from the river Mississippi to the Iberville; and that Upper Louisiana commences above the said bayou, the post of Natchez being the principal settlement of the French in that quarter, in whose neighborhood they cultivated tobacco. The settlement of Natchitoches, which they afterwards formed, was considered as depending on Upper Louisiana.

It would be easy to prove that this latter settlement was made by the French within the Spanish territory, and merely through the condescension or suzerance of the viceroys of Mexico, and the governors of the province of Texas. Before the French had founded New Orleans, there already existed the Spanish missions and settlements of San Francisco, La Purissima Concepcion, San José, and Nuestra Señora de la Guadalupe, at a very short distance from Natchitoches; and the right of property and possession on the part of the Crown of Spain to the whole of this territory, as far as the Mississippi, was notorious.

I am aware that the French attacked the mission of Texas, during the war between France and Spain, under the regency of the Duke of Orleans; that for this purpose they proceeded from the post of Natchitoches, and that the Spaniards retreated to San Antonio de Bexar, till the governor of the province, the Marquis de Valero, advanced to chastise and keep the enemy in check. This commander marched against them in 1719, drove them from the Spanish posts, and obliged them to shut themselves up in Natchitoches.

This expedition is connected with the authentic facts of which M. Du Pratz has made up a ridiculous and fabulous tale, in his history of Louisiana, when he speaks of a Frenchman of the name of St. Dennis, and supposes certain conventions entered into between him and the Duke de Linares, Viceroy of Mexico. In 1715, St. Dennis penetrated from Mobile to the Spanish garrison of San Juan Bautista, with three companions and a passport, on pretence of going to buy cattle in the missions of Texas, but in reality to carry on a contraband trade and explore the country. Both he and his companions were seized and conveyed to Mexico. After a variety of adventures, St. Dennis made his escape, and was one of those who set out from Natchitoches with other Frenchmen to attack the inhabitants of Texas, as I have before stated.

After this event the Marquis de Aguayo came to Texas, re-established the old missions, and founded new ones, viz: Pilar, Adaes, Loreto, at the bay of Espiritu Santo, or St. Bernard, and Dolores, known by the name of Orquizaco; he

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greatly improved San Antonio de Bexar, and placed the whole frontier of the province in a respectable state. Thus the Spanish settlements remained tranquil until Louisiana was ceded to Spain, when the garrisons of Adaes and Orquiza were suppressed, as being no longer necessary.

As a further proof that the post of Natchitoches was acknowledged even by the French as being within the Spanish territory, I shall add two facts: the first is, that when Captain Don Domingo Ramon came with a party to Texas, after St. Denis and his followers were sent to Mexico, he paid a friendly visit to the French at Natchitoches, and entered that fort with the royal *patova* and *insignia* as a sign of the dominion and jurisdiction of Spain, to which the French made no opposition. The second fact is, that in the year 1742 the French Governor of Natchitoches being desirous to remove that fort, which had been injured by an inundation, somewhat farther from the bank of the Rio Roxo, (the Red river,) he waited on the Spanish Governor of the Adaes, Don Manuel de Sandoval, and requested the necessary permission to do so. Sandoval granted it, as the site to which he wished to remove it was no farther than a musket-shot from its former situation. Notwithstanding the Viceroy of Mexico, on being informed of this act of accommodation, highly disapproved it, and despatched Col. Don Francisco de Brito to Adaes, to supersede Governor Sandoval, and bring him under guard to Mexico, to be tried there before a court martial; which was carried into effect with all the rigor of the law.

It is unquestionable, from the historical series of facts, and the most unexceptionable documents, that the province of Texas extended to the Mississippi, and that the French never crossed the river into that district but through the sufferance or permission of the Spanish Governors; and that, in consequence of the former abusing the generosity with which they were permitted to trade with the Indians of that territory, and to hold, for that purpose only, the posts of Natchez and Natchitoches, positive orders were issued to drive the French from the whole district, and destroy the said posts. The Spanish commandant advanced with a sufficient force to execute those orders; but he acceded to the proposals of the French at Natchitoches, which were confined to this: that Arroyo Hondo, which is midway between Natchitoches and Adaes, should be considered as the dividing line, until the determination of the two Courts. In this state things remained without further change, and so continued until the cession of Louisiana to Spain relieved those provinces of Spanish America from all embarrassment and trouble from the French. But it always was an undeniable fact, established by the irresistible titles and documents, that the French neither held nor had held, to the westward of the Mississippi, in 1719, any other posts than Natchitoches, which they held merely by the condescension of Spain; and that the Spanish settlement of Adaes, only five leagues distant from the Rio Roxo,

(Red river,) existed much earlier, and did so exist until Louisiana was transferred to Spain. The parochial records of Nacogdoches and Adaes, with the registers of births, baptisms, and deaths, attest it still more circumstantially, as well as the proceedings of the pastoral visit made in 1805, by Don Primo Feliciano Marin, bishop of the new kingdom of Leon, who visited the district of Adaes, and the whole province of Texas.

The right which Spain always had to all the territories to the north and east of New Mexico, as far as the right bank of the Mississippi and the Missouri, is proved with equal certainty. All these territories, and the different branches, falls, and waters of the Mississippi, were always comprehended within the line of the Spanish dominion in that part of America from the earliest periods of its discovery and conquest. Although the French penetrated several times from Mobile and Biloxi to different parts of that line, they never acquired any right to them. Their excursions were confined to trading, or smuggling, or exploring the country. The huts or posts which they had in some Indian nations were trifling establishments, clandestine and precarious, which they were unable to preserve. The Spaniards had traded much earlier than the French with all these Indian nations; with the Missourians, extending along the river of that name; the Paducas, beyond the river La Platte; and, still farther to the Northwest, with the Latanes; and, finally, with several others, as being within the dominions of the Crown of Spain.

The French themselves never disputed the rights of the Spaniards to possession and property, nor laid claim to injure the rights of Spain on all occasions of making grants of land within her settlement of Louisiana; and the French settlers at all times carefully respected the right bank of the Mississippi, throughout its whole extent, as the well-known property of Spain. No memorial can be found declaratory of a contrary opinion, except a decree of Louis XIV., dated at Fontainebleau, on the 14th of September, 1712, in favor of M. Crozat, ceding to him and the company formed by him the French settlement of Louisiana, with an ideal and vague demarcation of boundaries, by extending them mentally to New Mexico and the English province of Carolina, and along the Mississippi from the sea to the Illinois, &c. It is evident that the Court of France did not then possess any knowledge of the geography of that country, or that New Mexico was considered as bordering on the Mississippi, notwithstanding Louis XIV. had carried his liberality so far in that grant as to give the French company even the river Mississippi and the Missouri. He might, with equal reason, have given those of the Amazons, the La Plata, and Oronoko. You are perfectly aware, sir, the expressions of this grant are vague and absurd. They never could alter the fixed limits of French Louisiana, or of the Spanish possessions. The grant of Louis XIV. was always considered as the act of a disordered imagination. The Spaniards constantly preserved their dominion over

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all the right bank of the Mississippi, and over all the territories and waters from the former to the right shore of the latter. Even the French themselves, notwithstanding this famous grant, never ventured to go beyond the certain and well-known limits of their settlement, or violate those of the territory and dominions of the Crown of Spain. It is therefore of no consequence to us if such a blunder was committed by those who penned the said grant at Fontainebleau. If a document of this nature was sufficient to dispossess a nation of its dominions, or of any part of them, what security could there be in any part of the possessions of independent Kingdoms and States? Can there be a mind capable of conceiving that such a paper can fail to be absurd and completely despicable, since it never took effect, has always been resisted as rash and extravagant, and since the incontestable rights of Spain to the property and possession of the said territories existed then, and do still exist? Certainly not.

The Court of France was immediately sensible of the extravagance of that grant, as no farther mention was made of it. On the contrary, when it ceded Louisiana to Spain, in 1764, M. Kerlet, who had been many years Governor of that Province, was ordered to draw up a memoir, containing a description of its proper extent and limits. This memoir, delivered by the Duke of Choiseul, Minister of France, to the Spanish Ambassador at Paris, as a supplement to the act of cession of Louisiana, agrees substantially with that which I have just now pointed out. I would carry this demonstration still farther, if I thought it necessary; and I will do so if you shall have anything to object to it. In the meantime, I now confine myself to declare to you, sir, and to the Government of the United States, in the name of the King, my master, that, although Spain has an original and indisputable right to all the right bank of the Mississippi, His Majesty has resolved to claim this right solely with a view to adhere to the *uti possidetis*, or state of possession in which the Crown of Spain was when she acquired Louisiana in 1764, and in which that of France was at the time she made the cession. His Majesty, paying due respect to all such treaties and conventions as have caused a change in the state of possession of the two nations in that part of America, religiously confines himself to the express period when Louisiana was circumscribed by the well-known extent and boundaries with which it passed into the hands of the United States.

As these boundaries, to the westward of the Mississippi, although always notorious and acknowledged, have not been marked out with the formality necessary to avoid doubts and arbitrary pretensions, and as it is only evident that they undoubtedly proceed from the Mexican Gulf, by the river Mermento, or Mermentayo, and Arroyo Honda, by drawing a line between Natchitoches and Adaes, which crosses the Red river, and extends towards the Missouri, I have done no more than point out the basis for a line of demarcation; and after we have agreed on this basis, a commission,

composed of Spaniards and Americans, formally appointed and authorized by their respective Governments, can, and ought alone, to examine and fix the boundaries between the possessions of the two Powers, keeping in view the documents exhibited on both sides, and comparing them on the spot with the points to which they refer. The basis I now speak of, as necessary for this demarcation of boundaries, must be sought for precisely in the most marked, leading, and notorious points, which showed the proper direction and extent of the territories of Spain, France, and England in 1763 and 1764, since we cannot seek for them in preceding periods, the possessions of the three Powers in this part of the American continent being then very different from what they have been after those periods, in virtue of public treaties, which are, and ought to be, inviolable.

The situation, therefore, of the three Powers, until 1763, was as follows: the Crown of Spain extended its dominion to the east, over the right side of the Mississippi, from its mouth to the mouth of the Missouri; and to the north, over the right side of the latter river, from its mouth to its source. Florida, already contracted by the intrusive establishment of Louisiana, commenced at the river Perdido, and extending eastward towards the river Santa Maria, (St. Mary's,) included the whole peninsula, which extends as far as the twenty-third degree of south latitude. Its northern boundary was not yet fixed. In addition to the colony of Louisiana, such as I have shown it was, and ought then to be, France possessed the territories of Upper and Lower Canada, extending south to a line running from the river Alivamo, and following the chain of the Alleghanies until it struck above Chaleur bay. England extended her possessions to the south of the said line, on the coast of the Atlantic, from the river St. Mary to the river St. Croix, and added to those possessions all the territory lying north of the two Canadas, as far as Hudson's bay and Lake Winnipeg, which had been ceded to her by France, at the peace of 1713.

But France, as you know, sir, was, by the treaty of 1763, excluded from the continent of North America, with the exception of Louisiana, then reduced to the island of New Orleans, and to the tract of country to the north of Missouri, and extending to the British possessions. By that treaty, she ceded to England both the Canadas and all that part of Louisiana extending over the left side of the Mississippi from its source to the bayou Manchac, and thence following the left of the river Iberville, the lakes Maurepas and Pontchartrain, the coast and islands, to the river Perdido. Spain ceded, in like manner, Florida to England, such as I have described it; and in the year 1764, which is the second period when it is necessary to distinguish and fix the basis referred to, she acquired, by cession from France, her remaining portion of old Louisiana. She afterwards acquired what France ceded to the English on the left of the Mississippi, and Florida, also, which she had ceded to them in 1763, as is proved by the treaty of 1783. This treaty, and those of

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1763 and 1764, before mentioned, are those which it is necessary to keep in view, together with that of St. Ildefonso, by which Spain ceded back to France what she had received from her; and France accepted the delivery, declaring herself satisfied, and taking possession by virtue of an act of His Catholic Majesty, which expresses the retrocession of Louisiana by Spain to France such as she had received it from France in 1764.

The treaties between France and the United States, and between the latter and Spain, (the first in 1778, and the second in 1795,) must likewise be kept in view, to illustrate incontestable rights and establish unalterable principles. To the treaties just mentioned, your Government and His Catholic Majesty may add all such other titles and documents as may be thought necessary to remove or settle any doubt which may arise in the subject-matter, to the end that the basis of a demarcation may be laid down upon a due understanding, and established and fixed with the greatest possible exactness.

You are perfectly aware, sir, that there can be no other just mode of settling the dispute in relation to the question of boundaries, and that it is the one which has always been adopted by all nations in similar cases; it being the anxious wish of His Catholic Majesty that this demarcation may be so accomplished as to leave no room for doubts or controversy in future, by proceeding to it with good faith, and in a manner that may be satisfactory to both parties.

I therefore conclude this note with the same opinion I expressed in my former one, namely, that it is indispensable to examine, ascertain, and agree on the points necessary and essential to the establishment of the true boundaries which separate, or ought to separate, Louisiana from the Spanish dominions; and that this can only be determined by the mode proposed. If you will be pleased to point out to me any other, which, while it fulfils that object, may be conciliatory and compatible with the rights and honor of the Crown of Spain, you may be assured, sir, that I shall adopt it with pleasure, as I shall thereby further the intentions of my Sovereign, which are to terminate as speedily as possible the disputes now pending in an amicable manner, so as to leave no spark of disagreement in future.

With these sentiments, I have the honor to offer myself to your disposal, and pray God to preserve you many years.

LUIS DE ONIS.

*The same to the same.*

WASHINGTON, January 8, 1818.

SIR: Having stated to you in my notes of the 29th of the last, and 5th of the present month, all that I thought proper and necessary on the subject of boundaries, that we may ascertain, discern, and fix with impartiality, justice, and good faith, those which divide, or ought to divide, Louisiana from the Spanish possessions situate to the east and west of that province, acquired from France by the United States, I now proceed to

discuss the different points on which your Government founds claims against those of His Catholic Majesty.

As this matter was sufficiently discussed (*ventilado*) and placed in the strongest light of evidence by the Spanish Government, in the notes addressed by it to Mr. Pinckney, at Aranjuez, and afterwards to the American commission, composed of that gentleman and Mr. Monroe, and also in those which, in the last instance were addressed by it to Mr. Erving, at Madrid, I shall resume the subject briefly and precisely, merely touching on the principal points of the dispute, and showing, with simplicity and clearness, to what the state of the question is reduced, and in what manner it should be fairly and justly arranged.

I divide into two classes the points on which your Government demands satisfaction and indemnification of His Catholic Majesty. The first comprehends the injuries, losses, and damages, suffered by American citizens from Spanish authorities and subjects, and those suffered by the subjects of the Crown of Spain from American authorities and citizens. The second comprehends the losses, damages, and injuries, sustained by American citizens from captures made by French cruisers on the coasts of Spain, and condemned by French Consuls residing in the Spanish ports. To this the whole question of indemnification is reduced.

The points embraced by the first class are as follows: 1st. The damages and injuries unlawfully caused by Spanish authorities and subjects on American citizens, and by American authorities and citizens on the subjects of the Crown of Spain, in violation of the law of nations and of the existing treaty, during the war between Spain and Great Britain, which terminated at the peace of 1801. 2dly. Damages and injuries sustained by American citizens in consequence of the interruption of the place of deposit at New Orleans, by an order of the intendant of the royal treasury of Spain in the province of Louisiana. 3dly. Injuries, damages, and losses caused to citizens of the United States by Spanish authorities and subjects, and by American authorities and citizens to Spanish subjects, directly or indirectly, from the year 1801 until the period when the correspondent convention between the two Governments on all the points embraced by the question of spoiliations shall be concluded and signed.

Those which are comprehended in the first point are acknowledged to be evidently founded on justice; and, to carry them into effect, there exists ever since 1802 a convention stipulated and signed between Spain and the United States. You are aware, sir, that the suspension of this convention did not originate with His Catholic Majesty's Government. His Majesty is ready to give full effect to it; and on the basis of that convention we can establish and agree on what may be most just, suitable, and expeditious, to make a reciprocal satisfaction for the aforesaid injuries and losses, comprehending in the convention to be stipulated and signed for that pur-



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pose all the injuries and losses respectively suffered since 1801 to the present, because these two points only are distinct in point of time; but, as you are perfectly aware, they are, in all other respects, of a like nature, and therefore of equal rights and justice.

The first and third points are consequently to be acknowledged as substantially forming only one, subject to the examination and decision of the joint commission which is to determine the necessary compensation, in virtue of the convention to be stipulated on the basis of that of 1802.

The second point, namely, that of the suspension of the deposit at New Orleans, might be omitted. You are aware, sir, that it lasted but a very short time, and in the depth of Winter, when the exportation of the produce of the Western States was very inconsiderable, and very hazardous and difficult; that, moreover, the order of the Intendant produced no other inconvenience to the American citizens than the trifling one of loading in the stream instead of laying their boats along the quay at New Orleans; and that the said order of the Intendant was an arbitrary act, duly disapproved of by His Catholic Majesty, and for which he directed his Minister to give suitable satisfaction to the United States in his royal name. The United States having received it, this affair ought from that time to be considered as terminated.

On the other hand, you cannot but admit that His Catholic Majesty was not bound to continue the deposit at New Orleans after the termination of the precise period stipulated by the treaty of 1795, by which His Catholic Majesty only agreed to designate another spot for the said deposit, upon the banks of the Mississippi. As this new spot was to be to the satisfaction of the United States, it was for them to point out and ask for it. The suspension ordered by the Intendant, although highly disapproved by the Spanish Government, was in consequence of the scandalous contraband and abuses by which, under cover of the deposit, enormous frauds were committed on the royal revenue. By the treaty no provision was made for this case, nor was there any stipulation relative to the time which was to intervene during the removal of the deposit from New Orleans to another spot on the bank of the Mississippi, or to the intermediate period between the suspension of the said deposit and the assigning another situation for it.

The Government of Spain was, therefore, not bound to become answerable for the losses and injuries eventually sustained by the short interruption of the deposit, since such obligations could only grow out of the stipulations of that treaty, which does not contain a single word that has the most distant allusion to such an obligation or engagement on the part of His Catholic Majesty.

Notwithstanding these reasons, and various others which I could adduce, to prove that the Government of Spain cannot be bound to make satisfaction for the aforesaid losses and damages,

His Catholic Majesty is disposed to yield to the reclamation of the United States on this point, provided they still insist on it, and to submit it, with the others spoken of, to the investigation and decision of the joint commission. There will, therefore, be no difficulty in also including this point, as far as it relates to injuries really caused by the order of the Intendant of New Orleans, in the convention to be formed and signed, if required by you, it being His Catholic Majesty's desire to give continued proofs to the United States of his frankness, good faith, and concension. I now proceed to the claim for losses and injuries committed on citizens of the United States by French cruisers and tribunals, in the capture of American vessels on the coasts of Spain, and their condemnation in Spanish ports, forming the object of the second part of this question, or that embracing the points of the second class, in the order of the enumeration I have adopted.

This part of the question was discussed in a very luminous manner in the notes addressed by His Catholic Majesty's Government to the American Ministers on the 10th of February and 5th of March, 1805; and you are aware that no reply was made on the part of the United States, weakening in the least the force of the principles and the truth of the facts on which the opposition of His Catholic Majesty to a responsibility for those damages and injuries was grounded. You will agree with me, sir, that there is no possibility of deciding, by a general rule, the extent of the responsibility of a nation on whose coasts and ports aggressions have been committed by another against a third party, as it depends in a great degree on the circumstances of the case, and the particular stipulations binding on nations.

By the treaty between Spain and the United States, the obligation of Spain is reduced to exercise its good offices with the offending party, and to aid the claims of the party aggrieved. "Each party shall endeavor, (says the treaty,) by all means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land, and shall use all their efforts to recover and cause to be restored to the right owners their vessels and effects, which may have been taken from them within the extent of their said jurisdiction, whether they are at war or not with the Power whose subjects have taken possession of the said effects."

On the part of Spain this has been done; and if her efforts have not produced the desired effect, the fault does not rest with her. Besides, the injuries done by French privateers on the coasts and in the ports of Spain to American citizens have a particular character, which relieves the Government of Spain from all obligation to indemnify them for those losses, even although such obligation had existed. The United States were not at war with France, consequently their recourse, as the aggrieved party, was always open to the Government and tribunals of the aggressor. Spain

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was then in alliance with France, and both were at war with Great Britain. She, therefore, could not prevent the privateers of her ally from entering her ports, as they were not fitted out against the Americans, but against the English. If these privateers, after going on their cruise, committed aggressions on American vessels, on pretence of considering them or their cargoes as English, the Spanish Government could neither foresee nor prevent it. The injuries were already done before it was apprized of them. Neither was it in the Spanish ports where the injury was completed, but in France, by the tribunals of cassation, to which the Americans appealed from the decision of the French Consuls residing in the ports of Spain. It was unquestionably in France that the offence and injury originated, and in France were they consummated. How, then, can indemnification be claimed of Spain for such injuries, and not of France, who was the cause of them, and the Power enabled to compel the aggressors to make due satisfaction, as they were her subjects, and had given the requisite bonds in her courts for their good conduct in their cruises? You cannot but be sensible, sir, that, according to every principle of reason and justice, it would evidently and unquestionably be monstrous to claim these indemnifications of Spain, as the Power existed then, and still does exist, which caused the injuries here treated of.

I would go still further to show that, by no established principle of the law of nations, can Spain be considered responsible for such indemnifications, not even indirectly, in case France should refuse to make them. I would cite, among others, the case in which Sir W. Scott, judge of the High Court of Admiralty of Great Britain, decided that prizes made by a belligerent, and carried into the ports of a Power its ally, and there condemned, are justly and lawfully condemned, according to the law of nations; and that the owners of the property prior to its condemnation have no longer a claim to it after condemnation has taken place. From this and other decisions, it follows that the Government to whose subjects the property condemned belonged has no ground to bring forward complaints or claims against the Government of the country where the prizes were made, because the condemnation is conformable to the law of nations, the sentence pronouncing it is valid, and the authority condemning the property legal, and proceeded according to rule. This doctrine is well known and acknowledged in the United States, as also the principle that, when a nation has employed its good offices, and taken such means as are in its power to procure satisfaction for the offence, and obtain compensation for the injuries committed on its coasts and in its ports, on a friendly or neutral nation, it is bound to nothing more, although its good offices and endeavors may not have produced the desired effect. This principle was applied by Mr. Jefferson, in his letter of the 5th September, 1793, to Mr. George Hammond. It is admitted by the best civilians, and agrees perfectly with the obligations of Spain towards

the United States resulting from the existing treaty between the two nations. I mean, however, in case Spain had not been the ally of France at the period, (because, even in that case, the principle I have just indicated would govern,) but, being then the ally of France in the war against Great Britain, she might certainly employ, among the exceptions exempting her from all responsibility in the case here treated of, the principle which served as the ground of Sir W. Scott's decision in the British admiralty court. But I do not consider it necessary further to illustrate these legal objections of the Government of Spain against the claim of your Government for the aforesaid injuries, inasmuch as this capital exception attends it, namely, that satisfaction for those injuries was already made to the United States by France; and, consequently, this affair is, and ought to be, considered as settled and terminated. This essential exception makes it superfluous to produce others, since the obligation spoken of, which was and could only be but one, is thereby evinced to have been extinguished. The French Government has positively declared that, "in the special convention concluded between France and the United States, this point was settled; and that the said convention, by which this claim and demand of the United States for due compensation for the losses and damages now spoken of were attended to and redeemed, was ratified in 1802, together with the treaty of cession or sale of Louisiana;" that is to say, that the amount of the said injuries and losses was then estimated and compensated in the price stipulated for Louisiana; so that full compensation was then made to the United States for all that was estimated and agreed on between the French and American Governments as forming the value of the said losses and injuries. The French Ambassador at Madrid gave a verbal assurance to this effect to His Catholic Majesty's Minister of State, and the Minister of Foreign Affairs of France gave a similar assurance to the Spanish Ambassador at Paris. His Catholic Majesty also demanded a formal and categorical answer of the French Government on this point, which formal declaration I here copy; it is thus expressed in the note transmitted by the Minister of France to the Ambassador of His Catholic Majesty:

"BOURBON L'ARCHAMBAULT,

"8th Thermidor, 12th year, (July 27, 1804.)

"MONSIEUR L'AMBAassadeur: I have duly laid before His Imperial Majesty the note which you did me the honor to address to me, dated the 24th July, relative to the discussion which has taken place between the Court of Spain and the Government of the United States. I shall not fail immediately to submit to him the more ample explanations which your excellency announces your intentions of making to me, both verbally and in writing, on this dispute, which seems to threaten the good understanding existing between the United States and your Court. Although I might yet defer giving my opinion to your excel-

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lency, in consequence of your intention to furnish me with the explanatory statements which you announce, I do not hesitate to inform you by anticipation that His Imperial Majesty cannot but be extremely sensible to the uncertain and uneasy position in which two Powers in amity with France are placed by this misunderstanding, and that he will certainly do whatever may depend on him to prevent its coming to an unfortunate issue.

"It is several months since I was informed by the *Chargé d'Affaires* near the Federal Government of the pretensions of that Government relative to a portion of country bordering on Florida, which has become a great object of ambition to the Americans, in relation to the establishment of their revenue system; and it seemed to me, from this information, that it was important that the Federal Government should use all the means in its power to obtain the annexation of this frontier portion of Florida to Louisiana; but the opinion due to the justice and moderation which distinguish the personal character of the President of the United States has not, nor does it yet permit me to think that menaces, provocation, and groundless hostility may be considered by him as the most suitable means to enable the United States to acquire a portion of territory belonging to a foreign Power which suits their convenience.

"Respecting the second point in dispute, which your excellency does me the honor to speak of in your note, I must say that I had previously no knowledge of it. And, indeed, if I had been informed that His Catholic Majesty's Ministers had carried their condescension for the Government of the United States so far as to engage themselves towards it for indemnifying violations pretended to have been committed by France, I should certainly have received orders from my Government to express the dissatisfaction which France must feel on the occasion of so unseemly a deference; and this dissatisfaction would have been expressed still more warmly to the Government of the United States than to that of Spain. There is every reason to suppose that the Court of Spain, by thus yielding to an improper demand, has emboldened the American Government, and determined it to become pressing, and even menacing on this occasion. As for the rest, explanations formerly given to your Court on this point, as well as those which have been authorized to be given to the Government of the United States by the *Chargé d'Affaires* of His Imperial Majesty, must enable you to judge of the opinion formed by His Majesty on this question, which, having already been the subject of a long negotiation, and of a formal convention between France and the United States, cannot again become a subject of discussion.

"Such, Monsieur l'Ambassadeur, are the remarks that I have thought proper to make in the first instance, in answer to the preliminary note of your excellency. In addition, I must observe that, in my opinion, the demonstrations which appear to me to have given your Government the

uneasiness it has charged you to express are somewhat exaggerated, either from the impression they have produced at Madrid, or from the construction, possibly too extensive, which the Minister of the United States to His Catholic Majesty may have, perhaps, given to his instructions. There is no room to suppose that a Government, anxious as that of the United States is to establish a general opinion of its wisdom and moderation, would resolve on engaging in an unjust war through motives of ambition; but as the United States attach great importance to the acquisition of a part of Florida suited to their convenience, it is not to be doubted that they will make every effort to obtain it. The ground of this dispute, therefore, rests entirely on this point. Perhaps the Federal Government may have thought that it would tend to promote a negotiation for exchange, by exciting a diplomatic quarrel. The wisdom of His Catholic Majesty will certainly suggest to him what is proper to be done on this occasion, with a view to terminate a dispute which, I have no doubt, will incessantly be revived, so long as no change shall take place in the actual relative position of Louisiana and the Floridas; but on this point it is for the wisdom of His Catholic Majesty to decide. The United States are not founded in making any claim on His Majesty. A positive declaration was made to them that Louisiana was delivered to them such, and with the same extent it had when acquired by France; and this declaration will again be made to them as often and as positively as His Catholic Majesty will desire it.

"I request your excellency to receive the assurances of my highest consideration.

"CHA. MAU. TALLEYRAND.

"To Admiral TRAVINA,

"Ambassador of His Catholic Majesty."

You see, sir, that this declaration of the French Government is conclusive, and that the responsibility for losses and injuries caused by French cruisers and tribunals on the coasts and in the ports of Spain is removed from the period of that agreement; and that to renew a claim for what has been already paid and satisfied would be exacting double reparation for one and the same injury, and double payment for one and the same debt. Notwithstanding, if the United States have still a claim for the complete fulfilment of this satisfaction and payment, His Catholic Majesty is ready to unite his good offices and earnest requests to this claim of your Government on that of France, in order that she may perform, and cause to be performed, whatever may be justly required in behalf of American citizens who have sustained losses and injuries by her cruisers and tribunals. To this the obligation of Spain, in the present case, is reduced; and His Catholic Majesty's Government offers immediately to sustain all the just pretensions which the Government of the United States may be desirous to form against the Government of France on this point, or to demand of it all such explanations as may be judged necessary to clear up all doubts, if any

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are yet entertained by the United States, on this matter.

This point, then, being separated from those connected with the question of claims for injuries, losses, and damages, because that is already settled between France and the United States, or is to be settled with France directly, if anything still remains to be performed, we can agree upon a just and suitable mode of determining a reciprocal satisfaction for the injuries, losses, and damages, before spoken of, and included in the three points of the first class as enumerated in this note, in order that we may proceed more clearly and methodically. These three points, as I have before said, will be submitted to the judgment and decision of the joint commission, in virtue of the convention to be formed on the basis of that of 1802, simplifying and rectifying it in such manner as will insure its most expeditious and faithful execution.

In this note, and the two others which I have already had the honor to address to you, are contained all the points in dispute between the Government of His Catholic Majesty and that of the United States; and, to avoid confounding them with each other, I have treated them in their regular order, with precision, simplicity, and clearness. You can examine each of them, sir, with the impartiality and rectitude which distinguish your character; and I flatter myself that all the motives and grounds of the controversy will be completely removed by your discernment and wisdom, as you will not fail to acknowledge the irresistible force of what has been, and is now, demonstrated on the part of the Government of Spain.

When the different points treated of in each of these notes with the necessary discrimination are considered, and a decision formed on each of them, it is requisite that we should definitively settle and terminate the controversy, without leaving any room for dispute in future.

This general and definitive arrangement of all the points in dispute must, by its nature and circumstances, precede the negotiation for the exchange or cession of the Floridas, since, until it be determined and settled what are the territories on the frontier which belong to Spain, and what are those which belong to the United States, it is impossible to estimate the equivalent to be given to Spain for the two Floridas. Nevertheless, as it is the earnest desire of His Catholic Majesty to meet the wishes of the United States in everything that may be compatible with the rights and honor of his Royal Crown, you may, sir, devise and propose a mode by which we may at one and the same time adjust all the points of the controversy, and stipulate the exchange or cession of the Floridas, in case your Government should not agree to our previously settling the points connected with the question of boundaries, and establishing a convention, in conformity to the basis of that of 1802, for the mutual compensation of losses and injuries, according to the order I have adopted in my note.

I expect, therefore, your answer, sir, whether

it be confined distinctly to the subject of each one of my notes, according to their respective order, or to propose a mode embracing all the points comprehended in them, by which we may have them collectively settled in the negotiation which is to be entered upon for the exchange or cession of the Floridas. In this proceeding you will perceive, sir, a certain proof of the frankness and good faith of the Spanish Government, and of the sincere and friendly sentiments entertained by the King, my master, for the United States.

I conclude with the renewed assurances of my respects, and I pray God to preserve you many years.

LUIS DE ONIS.

*The same to the same.*

WASHINGTON, January 8, 1818.

SIR: In the National Intelligencer of the 6th of this month, I have seen published the official notice of the occupation of Amelia Island by the troops of the United States. I had already anticipated this unpleasant event, by the note which I had the honor to address you on the 6th of last month, in which I remonstrated, in the name of His Catholic Majesty, against the measures announced in that part of the President's Message to both Houses of Congress which manifested an intention to invade and forcibly seize on places and territories belonging to the Crown of Spain. Having received no answer to that note, I now feel myself obliged to repeat its contents to you, and to protest, as I now do strongly protest, in the name of the King, my master, against the occupation of Amelia Island, effected by the naval and military forces of this Republic, destined to operate against that island, forming a part of East Florida, one of the possessions of the Spanish monarchy on this continent.

Whatever may have been the motives on which the Government of the United States have founded their adoption of this measure, it cannot but be considered by all nations as a violent invasion of the dominions of Spain at the time of a profound peace, when His Catholic Majesty omits nothing to give the most generous proofs of his perfect friendship and high consideration for the United States.

I therefore trust that, upon your communicating this solemn reclamation and protest to the President, he will be pleased to direct that suitable orders be given to the American commanders at Amelia Island, and on that station, forthwith to restore the said island, together with all its dependencies, to His Catholic Majesty, and to deliver up the same to the Spanish commandant, and officers presenting themselves for that purpose, in the name of their Sovereign.

It is also my duty to represent to you, sir, that, at the time of the invasion and occupation of that island by the American troops, there was, and I believe still is, a considerable property belonging to Spanish subjects, which, in all cases, it is required by strict justice should be delivered to the owners, which, I doubt not, has already

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been, or will be done, in a due and proper manner, care being taken in the mean time that it be not removed or suffer injury.

I await your reply to this reclamation and protest, that I may be enabled to give seasonable intelligence and instructions to the Governor of St. Augustine, and to the Captain General of the Island of Cuba, provided the President, as I flatter myself, will resolve on the prompt restitution and delivery of Amelia and its dependencies to His Catholic Majesty's Government.

I cannot by any means doubt that this will be effected, confiding, as I do, in the high rectitude of the President, and in the inviolable principles of public faith, on which the security of nations reposes.

I have the honor to renew the assurances of my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis De Onis.*

WASHINGTON, January 16, 1818.

SIR: Your letters of 29th December, and of 5th and 8th of the present month, have been received, and laid before the President of the United States.

He has seen, not without surprise and regret, that they consist almost entirely of renewed discussions upon the several points of difference which have so long subsisted between the United States and Spain—discussions which had been exhausted in the correspondence between the Minister Plenipotentiary of the United States at Madrid and your Government in the years 1802 and 1803, and more especially in that between Don Pedro Cevallos and the special extraordinary mission of the United States to your Court in 1805—a mission instituted by the American Government, under the influence of the most earnest desire to terminate amicably, and to the satisfaction of both the parties, all those differences, but which, after five months of negotiation at Aranjuez, issued in the refusal of Spain to give satisfaction to the United States upon any one of the causes of complaint which were to be adjusted, or even to settle the question of boundaries existing between the United States and the Spanish provinces bordering upon them. The President considers that it would be an unprofitable waste of time to enter again at large upon topics of controversy which were at that time so thoroughly debated, and upon which he perceives nothing in your notes which was not then substantially urged by Don Pedro Cevallos, and to which every reply essential to elucidate the rights, and establish the pretensions on the part of the United States, was then given. For proof of which, I beg leave merely to refer you to the letters of Mr. Monroe and Mr. Pinckney to Mr. Cevallos, of 28th January, 26th February, 8th and 16th March, 9th and 20th April, and 12th May, 1805. I am instructed by the President to propose to you an adjustment of all the differences between the two countries, by an arrangement on the following terms:

1. Spain to cede all her claims to territory eastward of the Mississippi.

2. The Colorado, from its mouth to its source, and from thence to the northern limits of Louisiana, to be the western boundary; or, to leave that boundary unsettled for future arrangement.

3. The claims of indemnities for spoiliations, whether Spanish, or French within Spanish jurisdiction, and for the suppression of the deposit at New Orleans, to be arbitrated and settled by commissioners, in the manner agreed upon in the unratified convention of 1802.

4. The lands in East Florida, and in West Florida, to the Perdido, to be made answerable for the amount of the indemnities which may be awarded by the Commissioners under this arbitration; with an option to the United States to take lands and pay the debts, or to sell the lands for the payment of the debts, distributing the amount received equally, according to the amount of their respective liquidated claims, among the claimants. No grants of land subsequent to the 11th of August, 1802, to be valid.

5. Spain to be exonerated from the payment of the debts, or any part of them.

These proposals do not materially differ from those made to Don Pedro Cevallos on the 12th of May, 1805. The President has seen nothing in any events which have since occurred, nor in the contents of your notes, which can afford a reason or a motive for departing from them. Of the motives for coming to an immediate arrangement, the urgency cannot escape your attention. The events which have recently occurred in a part of the territory which you have informed me the King of Spain is willing to cede to the United States, those which are notoriously impending over the remaining part of that territory yet in the possession of Spain, make it indispensably necessary that the ultimate determination of your Government in this negotiation should be acted on without delay. The explanations requested by your notes of the 6th December and 8th January, of the motives of this Government in the occupation of Amelia Island, have been given in the Message of the President to Congress of the 13th instant, and cannot fail of being satisfactory to your Government. You see it there distinctly and explicitly declared that the measures which this Government found itself under the necessity of adopting in relation to that island were taken not with a view to conquest from Spain. You well know that, if Spain could have kept, or recovered the possession of it from the trifling force by which it was occupied, the American Government would have been spared the necessity of the measure which was taken, and which was dictated by the duty of protecting the interests as well of this country as of those with whom we are in friendly commercial relations, including Spain herself. But Spain cannot expect that the United States should employ their forces for the defence of her territories, or to rescue them, for her exclusive advantage, from the adventurers who are projecting and in the act of executing expeditions against them from territories without

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the jurisdiction of the United States. Neither can the United States permit that the adjoining territories of Spain should be misused by others for purposes of annoyance to them.

Under these circumstances, the President is persuaded that you will perceive the necessity either of accepting the proposals herein contained as the basis of an adjustment of the long-standing differences between the United States and Spain, or of offering such as can, by any possibility, be acceptable to this Government, without reverting to a course of proceeding the only result of which must be further procrastination.

I pray you, sir, to accept the assurance of my very distinguished consideration.

JOHN QUINCY ADAMS.

*The Chevalier Don Luis de Onís to the Secretary of State.*

WASHINGTON, January 24, 1818.

SIR: I have received your letter of the 16th of this month, by which I see, with great regret, that, in acknowledging the receipt of those I had the honor to address to you on the 29th of last month, and the 5th and 8th of the present, you omit to answer them, and decline taking into consideration the indisputable facts and grounds, and the irresistible arguments advanced in them, in relation to each of the points embraced by the dispute set on foot by the Government of the United States. You say it is useless again to discuss the facts, reasons, and arguments produced by the Spanish Government in the years 1802 and 1803, and in 1805, the American Plenipotentiaries, and the special extraordinary mission conjointly with them, having then replied to the different points of the notes of the Spanish Ministry in a manner capable of elucidating the respective rights of each of the two Powers, and establishing the pretensions of the Government of the United States; for proof of which you refer me to the letters of Messrs. Monroe and Pinckney to His Catholic Majesty's Minister, Don Pedro Cevallos, of the 28th of January, 26th of February, 8th and 16th of March, 9th and 20th of April, and 12th of May, 1805.

I think it proper to observe, in the first place, that although the facts, grounds, and arguments then produced by the Spanish Government do not differ essentially from those stated in my notes, their irresistible and conclusive force is neither altered nor in any manner impaired. Truth is of all times; and reason and justice are founded on immutable principles. It is on these principles that the rights of the Crown of Spain are founded to the territories eastward and westward of Louisiana, claimed by your Government as making part of that province—rights of immemorial property and possession, never disputed, but always notorious, and acknowledged by other nations.

In the second place, I must remark to you that, throughout the whole correspondence on this subject between the Ministry of the United States and that of His Catholic Majesty, there is not a

single fact, or a single argument, that can affect the certainty or decisive force of the facts, grounds, and reasons which support and determine the aforesaid rights of the Crown of Spain. There does not appear to be a single incident to give the smallest support to the pretensions of your Government. All the vague positions on which it has been attempted to found them have been refuted and dissipated by the Spanish Government, by a demonstration so luminous and convincing as to leave no alternative to reason to resist it.

To lay all this aside, and merely to say "that it is a matter already thoroughly debated, on which nothing further essential can be urged, and that the American Government insists on maintaining a contrary opinion," is to adopt an arbitrary course, because, this opinion not being supported by any solid foundation, and being, as it is, diametrically opposite to the unquestionable result of facts, and to the most incontestable principles and arguments, does not, nor can it, give to the United States any right to the pretensions they have formed. Neither can it be required that the Government of Spain should subscribe to this opinion, and renounce its rights to the territory which the United States wish to possess in the Spanish provinces bordering on those States, since that opinion, as I have already said, is altogether groundless and arbitrary, and since, on those rights, there neither does nor can there fall any doubt.

It is the sincere wish of His Catholic Majesty that a just mode of amicably settling all pending differences may be adopted, and he has authorized me for this purpose; but neither the powers he has conferred on me, nor my own sense of duty, permit me to enter into an arrangement which is not based upon the principles of common justice, combined in good faith with the suitable considerations of reciprocal utility or convenience. Being anxiously desirous of carrying the wishes and frank dispositions of my Sovereign into execution, I suggested to you, in our last verbal conference, the expediency of your making to me such proposals as you might think fit to reconcile the rights and interests of both Powers, by a definitive arrangement of the differences pending between them. Since you communicated the present state of things to the President, you have proposed to me in your note a plan of arrangement or adjustment embracing the question of boundaries, and that of indemnities, which is as follows:

To settle the former, you propose "that Spain shall cede all her claims to territory eastward of the Mississippi, (that is to say, the two Floridas;) and that the Colorado, from its mouth to its source, and from thence to the northern limits of Louisiana, shall be the western boundary of that province."

I have expressed in one proposal what you have stated in two, as both are reduced to the cession of territory by Spain. It is not only proposed that Spain shall cede both Floridas to the United States, but that she shall likewise cede to them

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the vast extent of Spanish territory comprehended within the line following the whole course of the Colorado. I presume that it is the river Colorado of Natchitoches you speak of, and not of another bearing the same name, and which is still farther within the limits of the Spanish provinces. I leave it to you, sir, to examine the import of these two proposals, and to see whether they are compatible with the principles of justice, or with those of reciprocal utility or convenience. It is demanded of Spain to cede provinces and territories of the highest importance, not only to the eastward, but to the westward of Louisiana, and that without proposing any equivalent or compensation.

To settle the question of indemnities, you make the following proposals:

1. That indemnity for spoliations on American citizens, committed by Spaniards or French within the jurisdiction of Spain, as well as for injuries sustained by American citizens by the interruption of the deposite at New Orleans, shall be settled by a joint commission, as agreed upon in the convention of 1802.

2. The lands in East Florida, and in West Florida to the Perdido, to be made answerable to the United States for the amount of the indemnities which may appear to be due by Spain to American citizens on the settlement to be made by commissioners appointed according to the convention of 1802; it being at the option of the United States to take the lands and pay the amount of the indemnities according to the award on the claims, or to sell the lands, and effect the payment with the proceeds of the sales. To this proposal you add, that all grants of land subsequent to the 11th of August, 1802, are to be null and void.

3. That Spain shall be exonerated from the payment of the debts, or any part of them.

Before I reply to these three proposals, I must repeat the uniform declaration of the Spanish Government to the United States, that His Catholic Majesty is, and always has been, ready to settle the question of indemnities, with a view to the full satisfaction of the just claims of the parties interested; and that His Majesty has always manifested the same sincere desire to settle definitively the question of boundaries to the satisfaction of both Powers; and that, if neither of these objects has been accomplished, it has not depended upon the Government of Spain. The contrary is evident, beyond the possibility of denial, from the official correspondence between His Catholic Majesty's Minister of State, and the Plenipotentiaries of the American Government, who suspended and broke off the negotiation at Aranjuez, after having obstinately refused to accept the modifications founded on strict justice which were proposed by the Spanish Government.

I now proceed to state the most obvious and essential difficulties which render your three proposals for the settlement of indemnities inadmissible. I observe that, in speaking of them, you only mention the indemnity for spoliations suf-

fered by American citizens, and omit that which is equally due to Spaniards for spoliations committed on them by the citizens and authorities of this Republic, in violation of the law of nations and the existing treaty. I also observe that you not only omit this indispensable basis of reciprocity and common justice, but propose the immediate cession of both the Floridas, which two Spanish provinces are to be retained by the United States as an indemnity or payment of what may appear to be due by Spain to American citizens, according to the arbitration of the joint commission.

You cannot fail to admit, sir, that this proposal, independent of its injustice, is offensive to the dignity and honor of His Catholic Majesty. It is unjust, because it demands an indemnity or anticipated payment of claims yet to be proved and liquidated, while, at the same time, it provides for no correspondent indemnity or payment of what may be due by the United States to Spanish subjects. It is offensive to the dignity and honor of Spain, because, by the very fact of demanding this anticipation, a want of confidence in the integrity and punctuality in His Catholic Majesty's Government is manifested, whereas a single instance does not exist of Spain having failed in fulfilling her engagements; the most scrupulous exactness, good faith, and strict observance of the point of honor, having at all times invariably formed the distinguishing traits of her character. It therefore becomes unnecessary to point out to you the enormous disproportion between the value of the two Floridas, and that of the probable amount of the claims of American citizens on the Government of Spain, after they are ascertained and liquidated. This disproportion will be still more enormous when you consider that, in the first of the three proposals, to which I am now replying, is included the indemnity for spoliations on citizens of this Republic by French cruisers and consuls on the coasts and in the ports of Spain, and by the tribunals of cassation in France, confirming the condemnation of American prizes.

It has been proved to mathematical demonstration that Spain neither is nor can be responsible in any way for this indemnity. It is France which must be responsible, if she has not already satisfied the claim, as her Government assures she has done.

Nor can I omit to declare to you, sir, that the pretension of annulling the grants of lands in Florida since August, 1802, would be in opposition to all the principles of justice. These grants are made in a lawful manner, and by a lawful authority. Spain was the owner and peaceful possessor of those lands. She had then an indisputable right to make the grants you allude to, as she now has to the property of the territory afterwards forcibly taken possession of by the United States, since a violent dispossession never deprives an individual or nation of their lawful rights. I proceed to your last proposal, which is, that on the admission of those preceding, Spain shall be exonerated from all obligation to pay the debts or

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claims which may be due to American citizens on their settlement and liquidation by the joint commission. I conceive this to be the import of the expressions, stating that "Spain shall be exonerated from the payment of the debts, or any part of them." This proposition is a corollary of the two preceding it, since, if Spain should cede the two Floridas to the United States as an indemnity or compensation for the losses and injuries done to the citizens of this Republic, she would necessarily be exonerated from this responsibility, the cession being, in such case, equivalent to a final discharge of the claims referred to. I go farther. Supposing your last two proposals for the definitive adjustment of the question of indemnities to be admitted and carried into effect, the one preceding, namely, that which refers this business to the award of commissioners to be appointed by both Governments, agreeably to the convention of 1802, would be useless and contradictory. As none of the proposals offered by you provide any indemnity for the losses and injuries caused to Spaniards, nor even make any mention of them; and as by the two last proposals, if admitted, the losses and injuries sustained by American citizens would be indemnified and compensated, according to the wishes of your Government, and Spain would consequently be exonerated from all responsibility on this head, it is clear that the business would then be settled and cancelled, and there would be no necessity for recurring to arbitration.

Finally, I cannot refrain from expressing my great concern at not being able in any degree to reconcile the proposals you have made me by order of the President with the inviolable principles of common justice; and on perceiving that on the part of the United States no basis is presented of a due reciprocity for the adjustment of the differences pending, the said proposals being altogether inadmissible.

I repeat to you, sir, that the King, my master, being desirous to meet the wishes of the United States, in respect to the cession of the Floridas, although it is well known how highly important those two provinces are to cover and secure the possessions of Spain in that part of America, His Majesty is ready to cede them, provided he is compensated by an equivalent in territory belonging to the United States, and bordering on the Spanish possessions; and it is under this idea that the powers and instructions I have from my Government are conceived. But you cannot fail to admit that the plan of adjustment proposed involves exorbitant and enormous sacrifices to the prejudice of Spain, since, without offering any equivalent or compensation on the part of the United States, it requires not only the cession of both the Floridas, but also that of immense territories belonging to the Spanish monarchy westward of Louisiana; and that, in relation to the question of reciprocal indemnities, it only comprehends those respecting American citizens, omitting those due to the Crown and subjects of His Catholic Majesty. This plan of adjustment would amount to the following one: "Give me

all I wish to ask, and give up all you may justly claim or show is yours." I am, however, perfectly persuaded that this neither is nor can be your intention, or that of your Government; and that, in making these proposals for an adjustment, your only object was to afford me an opportunity to make such as you might consider just and admissible.

I shall, therefore, point out to you such as I conceive to be founded in justice and reciprocal convenience, and therefore cannot fail to meet the wishes of the United States.

1. "The dividing line between Louisiana and the Spanish possessions to be established in one of the branches of the Mississippi, either that of La Fourche, or of the Atchafalaya, following the course of that river to its source. Spain to cede the two Floridas to the United States in full and complete sovereignty."

In case this proposal should not appear admissible to your Government, the following may be substituted: "The *uti possidetis*, or state of possession in 1763, to form the basis, and the western line of division to be established from the sea, at a point between the rivers Carcasa and the Mermento, or Mermentao, running thence by Arroyo Hondo, till it crosses the Colorado of Natchitoches, between that post and Adaes, thence northward to a point to be fixed and laid down by commissioners respectively appointed for the purpose."

2. His Catholic Majesty to ratify the convention of 1802, and both Governments to abide by the decision of the joint commission on the question of indemnities, classing as such those which regard American citizens and the Crown and subjects of His Catholic Majesty, for spoiliations reciprocally committed to the period of the said convention, and thereafter, to the date of the confirmation of the adjustment by the joint commission. Five or seven members to compose the commission, with this condition, that if they are five, each Government shall respectively nominate a person for the fifth member, to be chosen by lot, provided they cannot agree on the person to be so chosen; the same to take place for the fifth, sixth, and seventh, if there be seven members; but the fifth, in the first instance, and the fifth, sixth, and seventh, in the second, shall neither be Spaniards nor citizens of the United States by birth or naturalization. They shall moreover be, by their profession and office, judges, of the number of those subjects who, among maritime and commercial nations, are usually employed to judge and decide on matters connected with maritime law and the law of nations, whether in France, England, Russia, Austria, or the Netherlands; in both cases, the person so designated to be provided with a certificate of the Government of the country he belongs to, proving the opinion entertained of his integrity and capacity, his quality and actual profession as a judge in the matters referred to, and also the assurance that permission shall be granted to him for discharging the duties of the commission, in case the said person shall be chosen by lot.



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With these modifications, suggested by prudence, impartiality, and the most perfect rectitude, and excluding, as is just, the indemnity for the spoiliations committed on the commerce of this Republic by French privateers and consuls on the coasts and in the ports of Spain, and by the tribunals of cassation in France, the convention of 1802 to be ratified and carried into execution.

3. His Catholic Majesty to unite with the United States in using their best endeavors to obtain from France the correspondent indemnity for the spoiliations just mentioned, in case that question has not already been settled between the French and American Governments.

4. The Government of the United States to engage to take effectual measures to prevent all hostile armaments in their ports and territory against the commerce and possessions of Spain, either by Americans or any other Power, or by adventurers of any other nations, or by the rebels of Spanish America; and, for their due execution, the President to issue positive orders to all persons employed by the Government, charging them, on their responsibility, to guard against any infraction or violation of them whatsoever, extending the same measures to the preventing of any vessels employed in cruising against the Spanish commerce, or otherwise hostilely engaged against the Government and subjects of His Catholic Majesty, from arming in, or entering armed, the harbors and waters of the United States. Every vessel of this description found within the jurisdiction of the United States to be seized without remission, and subjected to the rigor of the law by the American officers and authorities; and the vessels and property so captured, belonging to the subjects of the Crown of Spain, to be laid under attachment, and definitively delivered up to His Majesty's Minister, or the nearest Spanish Consul, to be held by them at the disposal of the lawful owners. This proposal contains nothing beyond the obligations already imposed by the laws of the United States, the law of nations, and the existing treaty. But as it is evident to you, and to the whole world, that abuses and infractions of these laws and solemn compacts have been, and continue to be, frequently practised, it is absolutely necessary that suitable measures be adopted, fully and effectually to prevent the repetition of similar abuses and infractions.

By these four proposals the rights and interests of both Powers are reconciled upon principles of manifest justice and reciprocal utility; they settle and terminate all pending differences, in my judgment, satisfactorily to both nations; and I must presume that the President will view them in the same light, and substantially admit them. In case there be any other question of secondary or minor importance to be in like manner included in the general and definitive adjustment, it will be easy, and follow of course, after we have agreed on the most essential articles or points; we will then also determine the true import of the several propositions laid down,

and explain each one of them with the necessary clearness, accuracy, and precision.

If, however, you should find any difficulty or obstacle to the acceptance of the proposals I have now the honor to make to you, and are of opinion that by any other mode we may attain the desired object, without deviating from the fundamental principles and basis of justice and reciprocal convenience, I will, with great pleasure, be ready to adopt it, provided it be compatible with the powers given me by the King, my master. In this view you can propose such changes or modifications as you may see fit, as are calculated to remove all difficulties on both sides, and reconcile the rights, interests, and wishes of both Powers.

In the meantime, I hope that the course pursued by the President (*en la marcha de su conducta*) will correspond with the sentiments and uniform profession of amity and perfect harmony existing between His Majesty and the United States; and I am, therefore, constrained to reclaim and protest, formally, as I now do, against all measures whatsoever injurious to the rights of the Crown of Spain, and to renew, as I hereby do, the protest already made against the occupation of Amelia Island, and against the orders to occupy Galveston, inasmuch as the United States having no right whatever either to the said island or to Galveston, they neither had, nor could have, a just motive or cause to sanction similar acts of violence in the midst of peace.

I await your answer to this note in order that we may accelerate the moment of agreeing on just and fit measures for carrying the definitive settlement of all pending differences into effect.

In the meantime, I renew to you, sir, the assurances of my constant respect.

God preserve you many years.

LUIS DE ONIS.

*The same to the same.*

WASHINGTON, Feb. 10, 1818.

SIR: The multiplicity of business which I believe has, and still does engage your attention, from the necessity of preparing and laying before the Congress the papers and information called for on different subjects, must assuredly have prevented you from replying as yet to my note of the 24th of last month; it is, therefore, unnecessary for me to trouble you, by trespassing on your attention, to urge the importance of your answer, as I feel assured you are as fully aware of it as I am. But the earnest wish I have to accelerate the negotiation that has been opened, and thereby to come to a final settlement of the differences pending between His Catholic Majesty's Government and yours, impels me to take this step. I therefore request you, sir, to be pleased to inform me, as soon as you possibly can, whether the proposals offered in my aforesaid note come up to or approach the wishes of this Republic, and if, with the view of satisfying them, you can devise another just mode cal-

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culated to reconcile the rights of both nations upon some principle of reciprocal utility and convenience, I hope you will communicate it to me, in full confidence that I shall not hesitate a moment to accede to any modification or expedient founded on a basis of acknowledged justice and mutual utility, because it is to such a basis that all the instructions and powers I have received from my Sovereign refer.

The United States having manifested a wish to obtain the Floridas, His Catholic Majesty has condescended to accede thereto, as a proof of his friendship and high consideration for the United States, and has authorized me to stipulate the cession of those two provinces for an equivalent of territory westward of the Mississippi. Having proved on the part of His Majesty's Government, by the most complete evidence of which moral facts are susceptible, and by a conviction in nowise inferior to that of mathematical truths, that the proper boundaries of Louisiana, eastward of the Mississippi, are defined by the course of that river, and thence by the Iberville and the Lakes Maurepas and Pontchartrain; and that to the westward they never did nor could extend beyond the rivers Carcasa and Mermento, or Mermentao, running between Natchitoches and Adaes, across Red river, and thence northward to a line not yet fixed, and to be settled by commissioners to be appointed by both Governments, it is clear that the proposals offered in my note for the final settlement of the question of boundaries cannot fail to appear advantageous to your Government, and satisfactory to the just wishes of the United States. But if, for their greater satisfaction, you can point out an expedient by which the said proposals may be still further modified, without detracting from the acknowledged principles of common justice and reciprocal convenience, I am ready to attend to and stipulate it immediately, if it come within the sphere of my powers and instructions; and in case it should not, by presenting, perchance, combinations which could not be foreseen by His Catholic Majesty, I will immediately despatch a courier to Madrid, to inform my Government of the demands of yours, and request more ample powers adapted to them.

The question of indemnities can be attended with no difficulty. The Spanish Government has always been willing to give due satisfaction for the losses and injuries sustained by citizens of this Republic, and committed by Spaniards, contrary to the law of nations and the existing treaty; but it cannot relinquish its claim to comprehend, in like manner, in the adjustment of those losses and injuries, such as have been committed by citizens and authorities of this Republic on the Crown and subjects of Spain, in violation of the same right and treaty. Your Government, sensible of the justice of this demand, cannot fail to accede to it; thus by ratifying the convention agreed on in 1802, as I have already proposed to you, the question of indemnities will be easily settled and determined.

The King, my master, being desirous of giving the United States and the whole world incontest-

able proofs of the rectitude and sincerity of his dispositions, and of his love of justice and good faith, is ready to submit all the questions embraced by the pending differences to the arbitration of one or more of the Powers of Europe in whom the United States may have the greatest confidence, they and His Majesty respectively engaging to abide irrevocably by the decision of such arbitration. In cases where justice alone is sought for, this reference must be particularly desirable, and has been frequently resorted to, as well by individuals as by the most respectable nations, on controverted questions.

The British Government, on being informed of the difficulties attending the negotiation pending between Spain and the United States, made an offer of its mediation for the purpose of reconciling them, and the President has not been pleased to accept it, as I have been lately informed by the Minister of England to these States. From this refusal I am to infer that the President is willing, on his part, to remove all the obstacles which oppose the prompt and happy termination of the negotiation pending; and, under this impression, which is due to the uprightness, rectitude, and good faith of the American Government, I flatter myself that it will not be necessary to have recourse to the mediation or arbitration of friendly or neutral Powers to settle and terminate on principles of justice the existing differences between the United States and Spain; and if unfortunately this should not be the case, I also flatter myself that your Government will approve of one of those modes, as being dictated by a sincere love of peace and justice due to such occasions.

I therefore hope, sir, that you will reply as soon as possible to the proposals made in my last note, and communicate to me whatever you may think most conducive to the happy termination of the pending negotiation, and still further to strengthen the bonds of friendship and good understanding between the two nations.

In the mean while, I have the honor to renew to you the assurances of my respect, and I pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onis, Envoy Extraordinary and Minister Plenipotentiary from Spain.*

MARCH 12, 1818.

SIR: The admission, in your letter of the 24th of January, that all the facts, grounds, and arguments, alleged in your previous notes of 29th of December and of the 5th and 8th of January, in support of the pretensions of your Government upon the several points of difference which have so long subsisted between the United States and Spain, are essentially the same as had already been advanced and discussed at the period of the extraordinary mission to Spain in 1805, while it justifies the reluctance, on the part of the American Government, manifested in my letter of the 16th of January, to the renewal of an exhausted

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discussion, cannot but excite some surprise, as comporting so little with the professions of the earnest desire of your Government to bring those differences to a speedy and happy termination which have been so strongly and so repeatedly expressed as well in your notes as in the recent communications from Don Francisco Pizarro to the Minister of the United States at Madrid. The observation, that truth is of all times, and that reason and justice are founded upon immutable principles, has never been contested by the United States; but neither truth, reason, nor justice consists in stubbornness of assertion, nor in the multiplied repetition of error. I referred you to the letters from the extraordinary mission of 1805 to Don Pedro Cevallos, for an ample and satisfactory refutation of the supposed facts, grounds, and arguments now reproduced by you. You reply by telling me that "there does not appear to be a single incident to give the smallest support to the pretensions of my Government; that all the vague positions on which it has been attempted to found them have been refuted and dissipated by the Spanish Government, by a demonstration so luminous and convincing as to leave no alternative to reason to resist it." And you, more than once, intimate that the American Government does not itself believe in the validity of the statements and arguments used by its Ministers in support of the claims of the United States, as asserted by them.

To language and sentiments such as these the Government of the United States cannot reply; nor can it, without an effort, continue at all a discussion sullied by such unworthy and groundless imputations.

I am directed by the President to confine the observations upon your late notes to those parts of them which have relation to the essential subjects of controversy between the two nations.

To give a single instance of that course of argument which you represent as equivalent to mathematical demonstration in favor of Spain, it will be sufficient to refer to your assertions in relation to the question of the eastern boundaries of Louisiana, as retroceded to France by the Treaty of St. Ildefonso in 1800, and ceded by France to the United States in 1803. The claim of the United States, under that cession, to the territory east of the Mississippi, as far as the river Perdido, rests, as you well know, upon the words in the two treaties describing the colony or province of Louisiana ceded by them, as having the same extent, not only that it had at the time of the retrocession in the hands of Spain, but also that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States. You know also with what force it was urged by the Ministers of the United States at Aranjuez, in 1805, that those words (referring to the primitive possession of the province by France) could have had no other meaning than that of extending the retrocession to the Perdido, because the province had always had that extent when in the possession of France. And what is your reply to this

argument, which you are pleased to include under the general censure of vague and groundless positions? It is no other than a supposition of a treaty of 1764, by virtue of which, you say, France ceded the western remnant of Louisiana to Spain a year after having ceded the eastern part of it, from the Mississippi to the Perdido, to England. With the aid of this treaty you are enabled, first, to discover an interval of time between the two cessions, and during which France possessed Louisiana, bounded eastward by the Mississippi; and, secondly, to include this treaty between Spain and France among those described in the article of the Treaty of St. Ildefonso, as "the treaties subsequently entered into between Spain and other States."

There is reason to believe that no such treaty of 1764 ever existed. That the cessions of Louisiana, westward of the Mississippi, to Spain, and eastward of that river to the Perdido, to England, were made by France both on the 3d of November, 1762, is certain; and that the acceptance by the King of Spain of the cession made to him took place on the 13th of the same November, 1762; the proof of which is in the very order from the King of France to L'Abbadie, for the delivery of the province to the officers of the King of Spain. The province had never belonged to France a single day, without extending to the Perdido. Nor can it be necessary to remind you that the very treaty of cession, by which France surrendered her possession of Louisiana to Spain, cannot be comprehended in the description of treaties subsequently entered into between Spain and other States.

As this simple reference to a notorious and unquestionable fact annihilates all that course of reasoning upon which your understanding rejects all doubt, so a recurrence to another fact, equally notorious, replies as decisively to your appeal to the treaty of 6th February, 1778, between the United States and France. You say that in the year 1800 France could not have acquired any territory east of the Mississippi, without a monstrous violation of that treaty; forgetting that that treaty, and all its obligations upon France, had, before the year 1800, ceased to exist.

The fact that the cessions of the two parts of Louisiana to Spain and England were made on the same day, may serve no less as a reply to all the verbal criticisms so gravely urged by Mr. Cevallos, and now repeated by you, on the force of the terms *retrocede* and *retrocession*, used in the Treaty of St. Ildefonso. The plain import of the words is neither more or less than giving back, restoring. It does not, and cannot be made to imply that both the parties to the restoration must, of necessity, be the same as both the parties to the grant. They only imply that the object and the party granting, and the party receiving it, as restored, are the same. To use an illustration from the concerns of individual life, suppose A, by two separate deeds, grants half an acre of land to B, and the other half to C. B, by subsequent purchase, obtains the half acre granted to C, and then regains the whole acre back to A. By whatever

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denomination the two half acres may have been called, in the interval between the first grant and the restoration, B might, with the most perfect propriety, be said to retrocede the whole; and if in the act of restoration the acre should be called by the same name, and expressly described as having the same extent as when it had been first owned by A, with what shadow of justice could B pretend that his regrant was only of the half acre he had first received from A, because the other half acre had, in the interval, been called by another name, and for some time owned by another person? That the term retrocession is in common use in this sense, take the following passage from the English translation of Alcedo's Dictionary:

"By a treaty in 1783, Great Britain *retroceded* to Spain all the territory which both Spain and France had ceded to Great Britain in 1763."

There would then be nothing in the terms *retrocede* and *retrocession* which could limit the territories restored by Spain to the boundaries under which she had first received part of them from France, even if the original cessions of the two parts had been made at different times, and even if those words, "with the same extent it had when in the hands of France," had not been inserted in the Treaty of St. Ildefonso. But when it is considered that the cessions by France of the two parts of Louisiana were made to Spain and to England on the same day; when we know that the cession of the part ceded to England had been made for the benefit of Spain, as it was an equivalent for the restoration by England of the island of Cuba to Spain; and when we seek for any possible meaning to the words referring to the extent of Louisiana when before owned by France, to our minds, sir, the conclusion is irresistible that the terms *retrocede* and *retrocession* can have, in this case, no other meaning than that for which we contend, and that they include the giving back to France the whole of Louisiana which had ever belonged to France, and which it was, at the time of the signature of the Treaty of St. Ildefonso, in the power of Spain to restore.

By the words in the third article of the Treaty of St. Ildefonso, adopted in the treaty of cession of 1803 to the United States, Spain retrocedes to France the *colony* or *province* of Louisiana, with the same extent that it "now has in the hands of Spain, and that it had when France possessed it, and such as it ought to be after the treaties subsequently entered into between Spain and other States." At the negotiation of Aranjuez, in 1805, your alleged treaty of 1764 never occurred to the imagination of Mr. Cevallos as one of these subsequent treaties; for, after citing this clause of the article, he says, in his letter to Messrs. Pinckney and Monroe, of the 24th February, 1805, "the treaties here alluded to are not, nor can be, others than those of 1788, between Spain and England, and 1795, between Spain and the United States." The American Ministers, in their answer of the 8th March, 1805, explicitly agree in opinion with Mr. Cevallos on this point;

and your intimation of a treaty of 1764, to which you suppose the clause also to apply, is as incompatible with the pretensions of your own Government in 1805, as with those of the United States at this day.

To account for the peculiar phraseology used in this description, inserted in the third article of the Treaty of St. Ildefonso, we must advert to the peculiar situation of the territory to be conveyed, and to what *must* have been the intention of the parties. It was a colony or province to be restored; and therefore the object of France could have been no other than to obtain the restoration of the whole original colony, so far as it was in the power of Spain to restore it. But there was a part of the original colony which had been ceded by France to England, which had in process of time become a part of the United States, and which, not being in the hands of Spain, she could not restore: there was another part which had been ceded by France directly to Spain, which still remained in her hands, but subject to certain conditions stipulated by Spain in a treaty with the United States; and there was a third part, which France had ceded to England in 1762, but which had afterwards fallen into the hands of Spain, and which she was equally competent to restore, as if it had been ceded by France to herself. As the boundaries of this colony or province never had been precisely defined, and had been, from its first settlement, a subject of dispute between France and Spain, the parties had no means of recurring to any former definition of boundaries to carry their intention into effect; as they had no geographical lines or landmarks to which they now recur, they assumed their definition from circumstances incidental to the present and past time. If the intention had been to cede back the *province* only with the extent it actually had in the hands of Spain, the parties would have said so, and omitted the other clause, which, in that case, would have been not merely superfluous, but tending to perplex that which would have been clear without it. If it had been intended that Spain should restore to France only what she had received from France, nothing could have been more clear and easy than to have said so; but then, the reference to the extent of the *colony* when France possessed it would have been not merely absurd, but contradictory to that intention. The very use of both the terms *province* and *colony* shows that the parties were looking to the original state, as well as to the actual condition of the territory to be restored. Louisiana, the actual Spanish *province*, was one thing, and Louisiana, the original French *colony*, was another; the adoption of both the words is of itself a strong presumption that the intention was to restore not only the actual province, but so much of any other province as was then in the hands of Spain, and had formed part of the original French colony.

Assume the intention of the parties to have been that for which we contend, and under the existing circumstances they could scarcely have

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expressed it by any other words than those which are found in the article—assume that they had any other intention, and you can find no rational meaning for their words. The province was to be restored, with the extent it actually had in the hands of Spain; the colony was to be restored, with the extent it had when formerly possessed by France. Spain could not restore the parts of the original colony which were not in her actual possession, and which already formed parts of the Western States and Territories of this Union; but she could restore that part of the colony of which she had become possessed by a treaty of 1783 with Great Britain. Mr. Cevallos urged, with some earnestness, that the first clause having marked the extent of the colony or province, such “as it then had in the hands of Spain,” it would be inconsistent and absurd to suppose that the words “and that it had when France possessed it” could be intended to mark a greater extent, because it would be saying, in one breath, that the cession was of the *same* extent, and of *more* than the same extent, that it had in the possession of Spain. But there is no absurdity or inconsistency in modifying, by one clause of a definition, an extent described in another clause of the same definition; no more than, in the description of a surface, the line in breadth is inconsistent with the line in length. According to this argument of Mr. Cevallos, the words “and that it had when France possessed it” had no meaning at all; they merely repeated what had been fully and completely expressed by the preceding clause; but if they had no meaning, what possible motive could the parties have for inserting them, when it must have been perfectly familiar to the memory of both that the extent of the province or colony, when in the hands of France, had included West Florida to the Perdido, which territory was also then in the actual possession of Spain? If it were possible to suppose that the Ministers of France and Spain, in the very article defining the extent of the country to be conveyed, could have been so careless as to admit an idle waste of words, the very composition of this article carries internal evidence with it that no such improbvidence is imputable to those by whom it was drawn up. The reference to the extent of the colony in the primitive possession of France could not be to a time when the property of it had been no longer hers. It could not be to say over again what had been said in the immediately preceding clause. Every word of the description carries with it evidence of deep deliberation and significancy. The first clause marks the intention of the parties, by the incident of actual possession by Spain, all of which was to be restored; the second clause modifies by enlarging the extent, from the incident of original possession by France; and the third clause modifies, by restricting the grant to the conditions which Spain had stipulated concerning the territory of other States. Altogether, the clear and explicit meaning of the whole article is, that Spain should restore to France as much of old French Louisiana as she had to re-

store, but under such restrictions as the engagements contracted by Spain with other Powers required of her good faith to secure.

Let us pass to the consideration of the western boundaries of Louisiana.

With the note of Messrs. Monroe and Pinckney, to Don Pedro Cevallos, of the 28th January, 1805, a memoir upon these boundaries was presented to that Minister, proving that they extended eastward to the Perdido, and westward to the Rio Bravo, or Grande del Norte. They observed in that note that “the facts and principles which justify this conclusion are so satisfactory to their Government as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory thus described.”

In their note of the 20th of April, 1805, to the same Minister, replying to his argument in support of the pretensions of your Government with regard to those limits, they lay down and establish by a chain of reasoning which neither Mr. Cevallos at the time nor your Government at any period since has ever attempted to break, three principles, sanctioned alike by immutable justice and the general practice of the European nations which have formed settlements and held possessions in this hemisphere; and by the application of which to the facts also stated in their note this question of the western boundary ought then to have been and eventually must be settled. These principles were—

First. “That, when any European nation takes possession of any extent of seacoast, that possession is understood as extending to the interior country, to the sources of the rivers emptying within that coast, to all their branches and the country they cover, and to give it a right in exclusion of all other nations to the same.”

Secondly. “That, whenever one European nation makes a discovery, and takes possession of any portion of this continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined by the principle above mentioned, the middle distance becomes such of course.”

Thirdly. “That, whenever any European nation has thus acquired a right to any portion of territory on this continent, that right can never be diminished or affected by any other Power, by virtue of purchases made, by grants or conquests of the natives within the limits thereof.”

The facts stated in this last-mentioned note, and to which these principles were applied in support of the claim of the United States, under the cession of Louisiana by France to them, were—

1. That the Mississippi, in its whole length to the ocean, was discovered by French subjects from Canada, in 1683.

2. That La Salle, a Frenchman, with a commission and authority from Louis XIV., discovered the bay of St. Bernard, and formed a settlement there on the western side of the river Colorado, in the year 1685, and that the possession thus taken in the bay of St. Bernard, in

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connexion with that on the Mississippi, had always been understood, as of right it ought, to extend to the Rio Bravo.

3. That the boundary, thus founded upon possession, was described as forming the limits of Louisiana, in the grant by Louis XIV. to Crozat, in 1712.

4. That it was supported by the testimony of the historical writers, Du Pratz and Champigny; by an historical and political memoir on Louisiana, written by the Count de Vergennes, the Minister of Louis XVI.; by a chart of Louisiana, published in 1762, by Don Thomas Lopez, geographer to the King of Spain; and by a map of De Lisle, of the Academy of Sciences at Paris, revised and republished there in 1782.

To these principles, thus clear, equitable, and explicit; to these facts, thus precise, authentic, and unsophisticated, what was opposed by Don Pedro Cevallos at that time, and what is now alleged by you?

Mr. Cevallos began by admitting that the western limits of Louisiana had never been exactly fixed; and alleged that, in the year 1690, five or six years after the possession taken, and the settlement formed by La Salle, Captain Alonzo de Leon, under a commission from the Viceroy of Mexico, examined the Bay of Espiritu Santo, (St. Bernard,) took possession of the territory, and founded the mission of St. Francisco de Texas. Mr. Cevallos asserted that it would be very easy to make it appear that France never had claimed this extent for Louisiana, but he did not make it appear. He also said that, if France had claimed it, Spain had never recognised, and was not bound to acknowledge the claim.

Mr. Cevallos said that the limits between Louisiana and the Texas had always been known, even when the French possessed Louisiana, but he had just before acknowledged that they had never been fixed. He spoke of missions founded near the beginning of the last century by the venerable Margel, of the order of St. Francisco; he alluded to plans, and documents, and historical relations which were not to be found in his department, but many of which, he added, were in the department of the interior, besides those which were in the Viceroyalty of Mexico. But he never pretended a possession, by Spain, of the territories in question, of an earlier date than 1690.

And what are these plans, and documents, and historical relations, which, after the lapse of thirteen years, you have drawn forth from all the archives of Spain, and all the historical disquisitions upon the discovery and conquest of the new world? Is it to that catalogue, biographical, and geographical, of Spanish adventurers, and of the numberless regions explored by them in the 16th century, which swells your note of the 5th of January, that we are to look for the limits of Louisiana and Texas? Or is it to that "royal order issued by Philip II., enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico," by virtue of which the Viceroy fitted out the expedition to scour the country and

hunt out the French of La Salle's settlement? Is it to that royal order that you appeal for proof of the prior title of Spain? It is even so. But as the voyages of Ponce de Leon in 1511, of Francisco de Garay in 1518, and of Hernando de Soto in 1538, have no more bearing upon this question than the voyages of Christopher Columbus and Sebastian Cabot, so you must be sensible that the royal exterminating order of Philip II., if it proved anything, would prove fatal to the whole province or colony of Louisiana. If that order *could* have been carried into execution, no such colony as that of Louisiana could ever have been established by France. That order, and any proceeding of the Viceroy of Mexico under it, can no more affect the right of the United States to the limits marked by the settlement of La Salle, than in can impair their title to the island of New Orleans. Far more honorable would it be, sir, to the character of your nation and the credit of your Government, to bury in the profoundest oblivion the memory of that atrocious order, than at this day to produce it for the purpose of bolstering up a title for which you have in vain ransacked the records of the Spanish monarchy to discover a better support.

To the efficacy, however, of this royal order, your whole argument, in behalf of the pretensions of your Government, perpetually recurs; for, although in some passages of your note you appear disposed to allow to the colony of Louisiana at least the eastern banks of the Mississippi, yet you are as frequently shrinking even from this concession, and representing the whole colony as an encroachment upon the dominion of Spain; at one time representing it as a profound stratagem of Louis XIV., seizing with rapacious avidity the unsuspecting moment of confidence of his grandson Philip V., while placing him upon the Throne of Spain; and, at another, holding it up as the act of a disordered imagination of the same Louis XIV., manifested in the grant of 1712 to Crozat. This grant you pronounce to be absurd and completely despicable; but for what reason it is not easy to conjecture. It certainly does not favor the pretensions of your Government, and it has none of the exterminating features of the royal order of Philip II.; but we consider it, as it has always been considered by the world, as a document not only indicative of sound judgment and discretion, but as marking the limits of Louisiana, as always claimed by France, and transferred, as relates to the western limits, with her title to that province, to the United States.

It is remarkable that, in imitation of Mr. Cevallos, you also, after repeatedly insisting that the boundaries of Louisiana were well known, and always acknowledged by France, finally conclude by admitting that they never were fixed or agreed upon. You repeat, time after time, that the French *never disputed* the right of Spain to all the territory westward of the Mississippi, while you cannot deny the settlement of La Salle at the bay of St. Bernard, in 1684; nor that the French settlements of Natchez and Natchitoches

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were made and maintained in spite of all the military expeditions, rigorous executions, and exterminating orders which the Viceroy of Mexico could send against them.

We may admit that, so long as the Spanish Viceroy could exterminate every foreigner who dared to penetrate into the Gulf of Mexico, they had the royal order of Philip II. for so doing. The bull of Pope Alexander VI. is a document of still earlier date, and at least of less disgusting import, upon which Spain once rested her claims to yet more extensive dominion in this western world. With equal show of reason, and with less outrage upon the rights of humanity, might you have alleged that bull as the incontrovertible proof of the Spanish claims, as to bring forth at this day, for its only substitute, that royal order of Philip II.

You know, sir, and your own notes furnish, themselves, the most decisive proofs that France, while she held the colony of Louisiana, never did acknowledge the Mississippi as the western boundary of that province. The claim of France always did extend westward to the Rio Bravo; and the only boundaries ever acknowledged by her, before the cession to Spain of November 3, 1762, were those marked out in the grant from Louis XIV. to Crozat. She always claimed the territory which you call Texas as being within the limits and forming part of Louisiana, which in that grant, is declared to be bounded westward by New Mexico, eastward by Carolina, and extending inward to the Illinois and to the sources of the Mississippi and of its principal branches.

Mr. Cevallos says that these claims of France were never admitted nor recognised by Spain. Be it so. Neither were the claims of Spain ever acknowledged or admitted by France; the boundary was disputed and never settled; it still remains to be settled; and here is a simple statement of the grounds alleged by each of the parties in support of their claims:

*On the part of the United States.*

1. The discovery of the Mississippi, from near its source to the ocean, by the French from Canada, in 1683.

2. The possession taken, and establishment made, by La Salle, at the bay of St. Bernard, west of the rivers Trinity and Colorado, by authority from Louis XIV., in 1685.

3. The charter of Louis XIV. to Crozat, in 1712.

4. The historical authority of Du Pratz and of the Count de Vergennes.

5. The geographical authority of De Lisle's map, and especially that of the map of Don Thomas Lopez, Geographer to the King of Spain, published in 1762.

These documents were all referred to in the letter from Messrs. Pinckney and Monroe to Mr Cevallos, of 20th of April, 1805. Since which time, and in further confirmation of the same claims, the Government of the United States are enabled to refer you to the following:

6. A map published by Homann, at Nuremberg, in 1712.

7. A geographical work, published in 1717 at London, entitled "Atlas Geographicus, or a Complete System of Geography, Ancient and Modern," in which the map of Louisiana marks its extent from the Rio Bravo to the Perdido. In both these maps the fort built by La Salle is laid down on the spot now called Matagorda.

8. An official British map, published in 1755, by Bowen, intended to point out the boundaries of the British, Spanish, and French colonies in North America.

9. The narratives published at Paris, of Hennepin, in 1683; of Tonti, in 1697; and of Joutel, in 1713.

10. The letter from Colonel La Harpe to Don Martin D'Alarconne, of 8th July, 1719. (A. No. 1. B. No. 2.)

11. The order from the French Governor of Louisiana, Bienville, to La Harpe, of August 10, 1721. (C. No. 3.)

12. The geographical work of Don Antonio de Alcedo, a Spanish geographer of the highest eminence. This work and the map of Lopez, having been published after the cession of Louisiana to Spain, in 1762, afford decisive evidence of what Spain herself considered as the western boundary of Louisiana, when she had no interest in contesting it against another State. (D. No. 4.)

*On the part of Spain.*

1. The voyages of Ponce de Leon, Vasquez de Ayllon, Panfilo de Narvaez, Hernando de Soto, Luis Moscoso, and other Spanish travellers in the sixteenth century, who never made any settlement upon any of the territories in question, but who travelled, as you observed, into countries too tedious to enumerate.

2. The establishment of the new kingdoms of Leon and Santander in 1595, and the Province of Coahuila in 1600.

3. The Province of Texas, founded in 1690.

Here, you will please to observe, begins the conflict with the claims of France to the western boundary of Louisiana, transferred by the cession of the province to the United States. The *presidios*, or settlements of Las Texas, were, by your own statement, adverse settlements to that of La Salle, who, six years before, had taken formal possession of the country in the name of and by authority of a charter from Louis XIV. They were preceded by an expedition from Mexico the year before, (that is, 1689,) to *hunt out* the French remaining of the settlement of La Salle. Now, what right had the Viceroy of Mexico to hunt out the French who had formed a settlement under the sanction of their Sovereign's authority? You will tell me that, from the time when Santa Fe, the capital of New Mexico, was built, *Spain considered* all the territory east and north of that province, as far as the Mississippi and the Missouri, as her property; that the whole circumference of the Gulf of Mexico was hers; and that Philip II. had issued a royal order to exterminate every foreigner who should dare to penetrate to it; so that the whole question of right between the United States and Spain, with re-

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gard to this boundary, centres in this: the naked pretension of Spain to the whole circumference of the Gulf of Mexico, with the exterminating order of Philip II. on one side, and the actual occupancy of France, by a solemn charter from Louis XIV. on the other. Well might Messrs. Pinckney and Monroe write to Mr. Cevallos, in 1805, that the claim of the United States to the boundary of the Rio Bravo was as clear as their right to the island of New Orleans.

In the letter of Messrs. Pinckney and Monroe to Mr. Cevallos of the twentieth of April, 1805, referring to the historical documents relative to the discovery and naming of Louisiana, they state that the Mississippi was discovered, with "its waters and dependent country as low down the river as the Arkansas, by the Sieurs Joliet and Marquette, from Canada, as early as the year 1673, and to its mouth by the Father Hennepin, in 1680; and by De la Salle and Tonti, who descended the river with sixty men to the ocean, and called the country Louisiana, in 1682; and, in respect to the bay of St. Bernard, in 1685;" that this was done at these periods, in the name and under the authority of France, by acts which proclaimed her sovereignty over the whole country to other Powers, in a manner the most public and solemn, such as making settlements and building forts within it."

To this Mr. Cevallos made no reply in 1805. But you, after giving an account of the murder by Spaniards of René de Laudonnière, observe, that "the story related of a Recollet friar, called Father Hennepin, is still more ridiculous, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St Louis, or Mississippi, of which he took possession in the name of Louis XIV., and gave it the name of Louisiana, (doubtless in his secret thoughts, and by a mere mental act.\*)" You add that these accounts, and, others of the like nature, are "contemptible in themselves, even although the facts they relate were authentic; since nothing can be inferred from them that can favor the idea started by those who speak of those transient adventures and incursions."

I have in my possession, sir, (and it shall, when you please, be subject to your inspection,) a volume, published at Paris in the year 1683, the title of which is, "*Description de la Louisiane, nouvellement decouverte, au Sudouest de la Nouvelle France, par ordre du Roy, dédiée à Sa Majesté; par le R. P. Louis Hennepin, Missionnaire Recollet et Notaire Apostolique.*" (*Description of Louisiana, recently discovered, to the southwest of New France, by order of the King; dedicated to His Majesty by the Rev. Father Louis Hennepin, a Recollet missionary and apostolic notary.*) In the preface to the King, the author says: "Sire, I should never have dared to take the liberty of offering to your Majesty the narrative of a new discovery, which the Sieur de la Salle, governor of Fort Frontenac,

my companions, and myself, have just made to the southwest of New France, if it had not been undertaken by your orders." "We have given the name of Louisiana to this great discovery, being persuaded that your Majesty would not disapprove that a part of the earth, watered by a river of more than eight hundred leagues, and much greater than Europe, which may be called the delight of America, and which is capable of forming a great empire, should henceforth be known by the august name of Louis, that it may thereby have a sort of right to your protection, and hope for the advantage of belonging to you."

Now, sir, permit me to request you to compare this authentic statement with that perversion of all historical evidence by which you have styled and have attempted to make the story of Father Hennepin's discovery of Louisiana ridiculous. Here is a book published at Paris, dedicated to Louis XIV., at the most glorious period of his reign, declaring to the world the discovery of Louisiana; declaring that it was made by his orders, and called by his name, for the express purpose of entitling it to become his property. Is this contemptible? Is this a secret thought, or a mere mental act? Is this a transient adventure or incursion? And, after calling this information too vague and uncertain upon which to found a title, can you talk of the rights of possession derived to Spain from the travels of Ponce de Leon, Francisco de Garay, and Vasquez de Ayllon?

Your view of the expeditions and adventures of La Salle is equally remote from the real and well-authenticated facts. "Let us see," you say, "what importance can be attached to what is said of Bernard [Robert] de la Salle, who, in 1679, descended from Canada to the Mississippi, and there built Fort *Crèvecoeur*, according to M. Du Pratz, or Fort *Prud'homme*, according to others. *What is certain* amounts to this: that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might do, *crossing the territories* of another nation, that he returned to Quebec, without any further result than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from whence he returned in 1684, with an expedition composed of four vessels, commanded by Captain Beaujeau, to explore the mouth of the Mississippi," &c. In this passage you represent—

1. The facts attending the expedition of La Salle as *uncertain*.

2. That he only made a rapid incursion, as a private adventurer, and, so far as related to his exploring expedition, with an imperfect result.

3. That he only went from Canada to the Mississippi, and thence returned to Quebec, whence he embarked for France.

4. That he only crossed the territories of another nation, (meaning Spain.)

I examine this part of your note with a minuteness which will be tedious to you, because it is precisely upon the character of La Salle's ex-



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peditions that the grant of Louisiana to Crozat by Louis XIV. is, in express terms, founded; because you have represented these expeditions in the colors thus marked with the avowed purpose of weakening the original title of Louisiana; and because you know that the characters, diametrically opposite, which I shall now prove to have belonged to them, must lead to the result of an incontestable title in France, and, consequently, at this time, in the United States. I answer the above insinuations in the order in which they have been stated.

There are three narratives of the expeditions of La Salle, all published at Paris, by persons who accompanied him in them.

The first in 1683, by Father Louis Hennepin; the same volume from which I have already presented you an extract.

The second by the Chevalier *Tonti*, Governor of Fort St. Louis, at the Illinois, published in 1697.

The third by Joutel, who was with him in his last expedition, and almost by his side when he fell by the hands of an assassin.

Of all the heroic enterprises which, in the sixteenth and seventeenth centuries, signalized the discoveries of Europeans upon this continent, there is not one of which the evidence is more certain, authentic, and particular, than those of La Salle.

La Salle, after having resided many years in Canada, as Governor of Fort Frontenac, formed the project of exploring the country from thence to the Gulf of Mexico, and of taking possession of it in the name of his Sovereign. He went to France for the purpose of obtaining the sanction to his enterprise. "His Majesty, (says Tonti,) not content with merely approving his design, caused orders to be given to him, granting him permission to go and put it in execution; and, to assist him to carry so vast a project into effect, shortly after the necessary succors were furnished him, with entire liberty to dispose of all the countries which he might discover."

He sailed from La Rochelle the 14th of July, 1678, and arrived at Quebec the 15th of September. On the 18th of November of the same year he left Fort Frontenac, to proceed upon his expedition, with thirty men, Tonti and Father Hennepin being of the company. After spending more than a year in traversing the four lakes, now known by the names of Ontario, Erie, Huron, and Michigan, and erecting forts at suitable places, where he landed, from them he embarked upon the Illinois river, and, having descended it for some distance, was obliged to stop, from the disappointment of losing a boat from which he expected supplies. Here, upon the Illinois river, he built Fort Crèvecoeur, divided his company into two separate parties—one for ascending the Mississippi to its source, and the other for proceeding down that river. Father Hennepin was of the former of these parties, and in their progress upwards, which they accomplished higher than the falls of St. Anthony, was taken prisoner by the Indians,

and, after some time, was released by them, found his way back to Quebec, and thence returned to France, and published the book of which I have spoken. In this book, published in 1683, at Paris, and marked as having been finished printing the 5th of January of that year, three months before La Salle had reached the mouth of the Mississippi, there is a map of the river as far down as Hennepin descended it, after he parted from La Salle, and upwards to the falls of St. Anthony, and the river St. Francis above them; at some distance above which, within a few leagues of its source, is the oak tree upon which the arms of France were carved by the detachment from La Salle's expedition, authenticating, with the most minute precision, the discovery of the Mississippi, to within a small distance of its source, as well as its course to the Gulf of Mexico. On the same map are also marked the fort at the Miamies, and that of Crèvecoeur, on the Illinois river, constructed by La Salle's orders.

In the meanwhile La Salle was obliged to leave the other part of his company, under the command of Tonti, and go back to Fort Frontenac for the supplies and reinforcements which had failed him by the loss of his boat. He returned and joined them again in November, 1682, proceeded down to the Mississippi, and to the mouth of the Wabash, where they built the Fort Prud'homme, (which you have confounded with that of Crèvecoeur,) after which they continued descending and successively meeting the Cappa, Arkansas, Tensas, Abenake, Tacucas, and Natchez Indians, and, on the 7th of April, 1683, reached the mouth of the Mississippi, where, after the religious solemnity of a Te Deum, they took formal possession of the country, erected a cross, fastened the arms of France upon a tree, and built several huts, which they surrounded with suitable intrenchments. La Salle, having thus accomplished the object of his expedition, returned by the same way, ascending the river to his fort of Prud'homme, which he reached on the 12th of May, and where he was some time detained by sickness. "On his arrival at Quebec, (again says Tonti,) he informed the whole city of his great discoveries, and of the voluntary submission of so many different Indian nations to the power of the King. A Te Deum was celebrated as a thanksgiving for this happy accession to the glory of the Crown. The eagerness of M. de la Salle to go and make known to the King and his Ministers the success of his travels obliged him to hasten his departure. He left Canada in the beginning of October, 1683." On his return to France, he was received with many marks of distinction by the King and his Ministers, and a new expedition was fitted out of four vessels and nearly three hundred persons, for the purpose of forming a colony at the mouth of the Mississippi. One of these ships was a frigate of the King, of forty guns, commanded by M. de Beaujeu, in which La Salle himself, his brother Cavelier, and the principal persons belonging to the expedition embarked; another was a smaller armed vessel, which the King had given to La Salle; the third, a flute of

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three hundred tons, laden with all the articles necessary for the settlement of the country; and the fourth, a small sloop of thirty tons, freighted for St. Domingo, where the expedition stopped on its way, but before their arrival at which this last vessel was taken by Spanish cruisers. This expedition sailed from La Rochelle on the 24th of July, 1684.

They failed in finding the mouth of the Mississippi, their destination—an accident similar to that which had happened to the first settlers of New England; and, after many disasters, landed and built a fort in February, 1685, at the head of the bay of St. Bernard, or, as they call it, of St. Louis, and westward of the river Colorado. Beaujeu returned with the frigate to France; the two other vessels were lost in the bay; and La Salle, after several unsuccessful attempts to find the Mississippi, on the 12th of January, 1687, left at his fort twenty persons, including seven women, under the command of Le Barbier, and took his departure with sixteen others, to go by land to the Illinois, and thence through Canada to France, to seek further reinforcement and supplies. On this journey he was basely assassinated on the 19th of March, 1687, by two of his own men, and left a name among the illustrious discoverers of the new world second only to that of Columbus, with whose history and adventures his own bear in many particulars a striking resemblance. His brother Cavalier, however, with Joutel, Father Anastase, and several others of the party with whom he had commenced the journey, successfully accomplished it, arrived at the French fort at the Illinois, where they found Tonti still in command, after having again been down to the mouth of the Mississippi, conformably to his orders from La Salle, to meet the expedition from Europe, and, after waiting some time there, returning to his post. From the fort at the Illinois, Cavalier, Joutel, and Father Anastase proceeded to Quebec, and thence returned to France, where they arrived in October, 1688, and where Joutel published the narrative of the expedition to which I have referred.

From this work of Joutel it likewise appears that the fort and colony left by La Salle at the westward of the Colorado was destroyed, not as you state by the Indians, but by the Spaniards from Mexico, who, until that time, had never had any settlement of any kind nearer than Panuco, and who, by your own account, had no other right or authority for this act than the royal order of Philip II. to exterminate all foreigners penetrating into the Gulf of Mexico.

The settlements of La Salle, therefore, at the head of the bay of St. Bernard, westward of the river which he called Rivière aux Bœufs, but which you call Colorado of Texas, was not, as you have represented it, the unauthorized incursion of a private adventurer into the territories of Spain, but an establishment having every character that could sanction the formation of any European colony upon this continent; and the Viceroy of Mexico had no more right to destroy it by a military force than the present

Viceroy would have to send an army and destroy the city of New Orleans. It was a part of Louisiana, discovered by La Salle, under formal and express authority from the King of France; and the royal exterminating order of Philip II., was but one of the multitude of sanguinary acts which signalized the reign and name of that monarch, while the name of La Salle is entitled to stand high in the glorious roll of the benefactors of mankind. After this statement, founded upon the most authentic documents, the foundation of the presidio of Texas, in 1693, was, by your own showing, an unlawful encroachment upon the territories of France, which, by the first of the three principles laid down by Messrs. Pinckney and Monroe at Aranjuez, and above referred to, extended on the coast of the Gulf of Mexico, half-way to the nearest Spanish settlement of Panuco, namely, to the Rio Bravo.

Your "thorough investigation" of the history of the original French settlements at the Illinois and the Arkansas is as unfortunate and as wide from the facts as all the rest of your dissertation upon the history of Louisiana. The following translated extracts from the work entitled "*Dernières Découvertes dans l'Amérique Septentrionale de M. de la Salle, mises au jour par M. le Chevalier de Tonti, gouverneur du Fort St. Louis, aux Illinois.*" (Last discoveries in North America of Mr. de la Salle, published by the Chevalier Tonti, governor of Fort St. Louis at the Illinois: Paris, 1697,) will furnish you more correct ideas upon the subject.

When La Salle left his fort, Crève-cœur, on the 8th of November, 1680, to go back to Canada for supplies, "on the third day (says Tonti) he arrived at the great village of the Illinois, where, after having observed the situation of the country, in the midst of several nations of the Miamies, Kickapoos, Ainoos, Mescontaws, and several others, watered by a beautiful river, he thought he ought to build a fort upon a height commanding the whole country, as well to make himself master of all these different tribes as to serve as a retreat and a rampart for our French people." (p. 94.) M. de la Salle, after learning that his boat was "lost, was not in the least discomposed, but wrote to me immediately, sent me with his letter the plan of the fort that he had designed; and ordered me to come and set to work upon it without delay. Tonti accordingly went, and began the building of the fort, which, from various untoward events, he was soon obliged to abandon. La Salle afterwards, before rejoining Tonti to proceed down the river, went to the new fort, and left several workmen to continue, and some soldiers to guard it. But it was upon his return from the mouth of the Mississippi, on leaving Michilimackinac, to go to France, that he gave orders to Tonti to finish the fort.

"He charged me with the duty to go and finish Fort St. Louis, of which he gave me the government, with a full power to dispose of the lands in the neighborhood, and left all his people under my command, with the exception of six French-

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men, whom he took with him to accompany him to Quebec. We departed on the same day—he for Canada, and I for the Illinois.”

Tonti accordingly finished the fort, round which a regular and rapid settlement was formed; and a new Governor in Canada having displaced him in the command of the fort, he was restored to it through the influence of La Salle, by a regular commission from the King, Louis XIV.

So much for the settlement at the Illinois. You have seen that when La Salle, in 1683, returned to France, to fit out the new expedition for the mouth of the Mississippi, he ordered Tonti, at the proper time, to go down from Fort St. Louis and meet him there. In the autumn of 1684 Tonti was informed by the Governor of Canada that La Salle had sailed from La Rochelle with four ships for the Gulf of Mexico. He therefore took with him forty men from Fort St. Louis, and went down the river to the gulf, where he waited until Easter Monday, 1685, for La Salle's arrival. He was obliged to go back disappointed, and, on his way upwards, when he came to the Arkansas, he says: “My French companions, delighted with the beauty of the climate, asked my permission to settle there. As our intention was only to humanize and civilize the savages, by associating with them, I readily gave my consent. I formed the plan of a house for myself at the Arkansas. I left ten Frenchmen of my company there, with four Indians, to proceed with the building, and I gave them leave to lodge there themselves, and to cultivate as much of the land as they could clear. This little colony has since then so much increased and multiplied that it has become a resting place for the Frenchmen who travel in that country.”

I trust, sir, we shall hear no more of the independent and unconnected Indian colonies of the Illinois and the Arkansas, nor of the *pretended* settlement of the French there.

You consider the charter of Louis XIV. to Crozat as a solitary document, warranted by nothing that had preceded, and supported by nothing that followed it; and you appear to believe that the first expedition to Louisiana was that of 1699 and 1700. I have shown you, sir, that that expedition was fitted out, as it is represented in the grant to Crozat, merely to carry into execution the project originally formed by La Salle. The Mississippi, from near its source to the ocean, had been discovered by him in an expedition meditated by him for many years before, for which he obtained the authority from Louis XIV., through the influence and patronage of Colbert. The expedition of Joliet, in 1673, Hennepin says, was only an envious rival attempt to forestall the great design which was even then known to be intended by La Salle, and for which he had already been making laborious and expensive preparations. Joliet reached the Mississippi, and returned without making any other discovery or any settlement; but La Salle's undertaking has every characteristic of sublime genius, magnanimous enterprise, and heroic execution. To him, and to him alone, the people

of this continent are indebted for the discovery from its source to the ocean, of the Mississippi, the father of the floods; and of the numberless millions of freemen destined in this and future ages to sail on his bosom, and dwell along his banks, and those of his tributary streams, there is not one but will be deeply indebted for a large portion of the comforts and enjoyments of life to the genius and energy of La Salle.

It was in the order of Providence that he should not live to accomplish the whole of his undertaking, but that he should so nearly accomplish it as to place it beyond the power of events that it should perish with him. His project was revived immediately after the peace of Ryswick, and settlements were effected by D'Iberville and his brother, near the mouth of the Mississippi, upon the Gulf of Mexico. They languished, as they naturally must, during the war of the Spanish succession. The grant to Crozat, after a very few years, was transferred to the Mississippi Company, and soon after the peace of Utrecht the city of New Orleans was founded.

There is no doubt that, if the Viceroy of Mexico could have exterminated D'Iberville and his expedition, no French settlement on the gulf would have been made. The Spanish establishment at Pensacola had been made only one month before he arrived there, and, solely for the purpose of preventing him, the Spaniards protested even against his entering the Mississippi. So it was afterwards; when the French settlement was made at Natchitoches, immediately afterwards was founded the post at Adaes.—Wherever a Frenchman took a seat, there appeared a Spaniard from Mexico to dispute his right to it; but the original usurpation, which vitiated all those that followed, was the foundation of the presidio of Texas, after extirpating the settlement of La Salle at the Bay of St. Bernard. And so far was France from renouncing or abdicating any part of the right asserted in the charter to Crozat, that, under the Mississippi Company, M. de Bourmon was appointed, with a salary, as commandant on the Missouri, and Bernard la Harpe commandant for the Bay of St. Bernard. In August, 1721, he went there, and left a new impression of the arms of France, as a continued assertion of the title. A vessel, commanded by Berenger, had been sent there, and had left a sergeant and three men the year before. The correspondence between De la Harpe and D'Alarconne shows the respective claims both of France and Spain at that time; nor do they appear to have been, nor have you exhibited any document to show that they had been, in any manner varied, until the cession of the province to Spain, in November, 1762.

You affirm that, from the year 1693, the province of Texas has continued in perfect tranquillity under the Spanish Government, and no further attempts were made by the French to penetrate into any part of it.” The letter of M. de la Harpe to Don Martin D'Alarconne, of 8th July, 1719, is sufficient to refute this assertion.

You assert that the French settlements of Nat-

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chez and Natchitoches were made only through the sufferance or permission of the Spanish Governors, for the sole purpose of trading with the Indians. We say that you have not a particle of evidence to support this assertion, and that the whole tenor of the historical evidence is to the contrary; that the post of Natchitoches, particularly, was established with the deliberate purpose of preventing a Spanish establishment there, and that the mission of St. Michael at the Adaes was founded after it, and in opposition to it. You admit, yourself, that although positive orders were issued by the Spanish Governors to drive the French from the whole district, and to destroy both the posts of Natchez and Natchitoches, yet the officer charged with the execution of the orders, after advancing with a sufficient force for that purpose, acceded to the proposals of the French at Natchitoches, that Arroyo Hondo, midway between Natchitoches and Adaes, should be considered as the dividing line until the determination of the two Courts; which state of things, you say, continued until the cession of Louisiana to Spain, in 1762. What clearer proof could be required that the French never renounced their claim to the countries watered by the Mississippi and its branches; and that Spain has nothing to oppose to that claim, which she might not with as much force oppose to the right of France to every other part of the colony of Louisiana?

You allege that, upon the cession of Louisiana to Spain, a memoir of its proper extent and limits was drawn up by Mr. Kerlet, who had been many years Governor of the province, and delivered by the Duke de Choiseul to the Spanish Ambassador at Paris, as a supplement to the act of cession; that this memoir contained a description of its proper extent and limits, and agreed substantially with your assertions. Permit me to observe, that, had you produced the memoir itself, it might be a subject of reply or of remark; that, not having produced it, you cannot expect it should be considered as possibly differing in substance from the charter of Louis XIV., by which alone Louisiana had been held, or from the subsequent memoir of the Count de Vergennes; and that the rights of the United States can as little be affected by secret memoirs as by imaginary treaties or exterminating royal orders of Philip II. With regard to your offer of further demonstrations of the Spanish title, if they are of the like description with these, you will do well to spare yourself and me the waste of time which it would take to produce and to notice them. You have the goodness to inform me, in the name of the King, your master, that Spain has an indisputable right to all the right bank of the Mississippi, but that His Majesty has resolved to claim it solely with a view to adhere to the *uti possidetis* of 1764. If, sir, you will exhibit any evidence of right in Spain to the right bank of the Mississippi, it will be considered by the Government of the United States with all the attention to which it can be entitled. In the meantime, you cannot but perceive that this pre-

tension is utterly incompatible both with that advanced in another part of your note, of a right in Spain to the whole circumference of the Gulf of Mexico, and with that of the *uti possidetis* of 1764.

The question of disputed boundaries between European settlements in America is not new. From the nature of those settlements, the imperfect geographical knowledge possessed by all the parties to them of the countries where they formed their establishments, and the grasping spirit by which they were all more or less animated in forming them, it was inevitable that disputed boundaries should be an appendage to them all. Of this spirit of boundless ambition Spain gave the most memorable example by the original pretension of engrossing to herself the whole American hemisphere. The common sense and common feeling of mankind could not, and did not, long tolerate this assumption. With what lingering reluctance, and by what ungracious gradations, Spain was compelled to recede from it, is notorious in the annals of the last three centuries; but it is among the most curious characteristics of your notes to show that she clings to these long-exploded pretensions still. You have not scrupled, even at this day, to style the most ancient settlements of other European nations in America "attempts to disturb the Spaniards in their possessions in the new world."

You recall to mind, with exultation, as if pointing to the most splendid monuments of Spanish glory, the ferociousness with which they attacked, and made prisoners, and put to death, and overthrew, dissipated, and destroyed the forts and settlements of Francis Ribaut, and René de Laudonnière, the companion of Coligny. You recite with triumph the expedition of Alonzo de Leon to scour the country and hunt out the wretched remnant of the brave and enterprising but unfortunate La Salle's establishment. You record, as one of your proudest title-deeds, the rigorous execution of the sentence of a court martial upon the Spanish Governor of Adaes, Sandoval, for yielding a musket-shot's length of ground to the French Governor of Natchitoches, suffering under the calamity of an inundation. You call the whole colony of Louisiana an intrusive establishment; style the authentic charter of Louis XIV. the absurd and despicable act of a disordered imagination; assert more than once a right of Spain to the whole circumference of the Gulf of Mexico; and talk of the territory and dominions of the Crown of Spain as if we were living in the age of Ferdinand the Catholic, or of Charles the Fifth.

To all such pretensions on the part of Spain, I am directed to inform you that the United States can never accede. The President is willing to hope that the time will come when your Government will become sensible of the uselessness of resorting to them.

From the time when the establishments of European nations on these continents became common, and their respective claims of territory under the charters of their Sovereigns were

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found to interfere with one another, reason, justice, and necessity, concurred in pointing out to them certain rules and principles for the adjustment of their conflicting claims. By these rules and principles we are willing that the question of the western boundary of Louisiana may be decided. Till Spain, who has repeatedly acceded to them heretofore, shall be prepared to abide by them on this occasion, it will be of little avail to pursue a discussion upon which the principles of the parties are utterly irreconcilable together.

With regard to the third of the subjects of difference between Spain and the United States that remain to be adjusted, the claims of indemnification for injuries, losses, and damages, suffered by American citizens from Spanish authorities and subjects, and within Spanish jurisdiction, I flatter myself, from the tenor of your note, devoted particularly to the consideration of this point, that it is not absolutely unsusceptible of being brought to a favorable issue. You express the willingness of your Government to resume the unratified convention of 1802, and to extend its stipulations to the cases of complaint of a similar character to those provided for in it, which have since that time accrued. It is undoubtedly the intention of this Government that its engagements should be reciprocal; and if this was not expressly declared in my note of the 16th of January, it was merely because the President was not aware that any such claims of Spanish subjects for indemnities from the American Government were in existence. I am authorized to assure you that there will be no difficulty in including any such as may exist in the convention, and in making the United States answerable for all indemnities which may be justly due by them. As you have also been empowered to include the cases of injuries and losses of the citizens of the United States, in consequence of the suppression by the Spanish intendant of the deposit at New Orleans, as stipulated by the treaty of 27th of October, 1795, it cannot be necessary for me to reply to your objections against the admission of those claims. I the more readily pass over that argument, because, as it is merely a repetition of what was urged on the same point by Mr. Cevallos in 1805, it may suffice to refer you, for a full and complete refutation of it, to the letter from Messrs. Pinckney and Monroe to him of the 26th of February of that year.

But even upon this branch of the negotiation, it is with regret that the President perceives a persevering determination of your Government to exclude from the consideration of the commissioners for settling indemnities the cases of American sufferers by French spoliations committed within the jurisdiction of Spain. In answer to your reference to the arguments of Mr. Cevallos on this point, in his notes to Messrs. Pinckney and Monroe of February 10 and March 5, [4.] 1805, it will be sufficient for me to refer you to their letters to him of 28th January, 12th and 26th February, 8th March, 9th April, and

12th May, with the statement then made by them of French captures of American vessels carried into the ports of Spain, and the demonstration that no indemnity for any one of those cases had even been demanded by the American Government of France, much less provided for in the conventions between the United States and France of 1800 and 1803. When you say that "no reply was made, on the part of the United States, weakening in the least the force of the principles and the truth of the facts on which the opposition of Spain to a responsibility for those damages and injuries was founded," it is impossible to account for your assertion but by supposing you have not been furnished by your Government with a copy of the above-mentioned statement. I therefore now enclose (E. No. 5) a copy of it, in which you will find how grossly mistaken, with regard to the facts, are all the allegations in the letter of the French Minister of Foreign Relations to Admiral Gravina, of 27th July, 1804, of which you have inserted in your note an entire copy, and of which Mr. Cevallos had already favored Messrs. Pinckney and Monroe with an extract.

It may be proper here to present some obvious remarks upon the frequent appeals to the opinions and assertions of France, (under the government of Napoleon,) in reference to the controversy between the United States and Spain, which were made by Mr. Cevallos at Aranjuez, in 1805, and which are now repeated by you with as much confidence as if you considered France, as then governed, the most impartial of umpires, and the most disinterested of friends.

At that time, when these opinions and representations of France were alleged by Mr. Cevallos, they were answered by the American Ministers with the firmness which became the representatives of a great and independent nation, and with the sentiment at once of their country's dignity, and of the respect due to the Government of France, with which the United States were in amity. With regard to the eastern limits of Louisiana, they observed that, the question depending upon the construction of a treaty to which the United States were a party, the opinion of France concerning it could be of no more weight in itself than that of the United States; that, in adopting the phraseology of the Treaty of St. Ildefonso, when France declined substituting a more specific definition of boundaries, the United States could not be supposed to have subjected themselves to the subsequent explanatory restriction by France of that which she then chose to leave standing upon the force of the terms themselves; and that, the delivery of the province by the commissioner of France to the United States having been without any limitation, it was obvious that he had received it alike without limitation.

With respect to the French spoliations within Spanish jurisdiction, while the interest of France was so immediate and direct as to take from her opinion all right to the consideration due to an impartial arbitrator, it was supposed that the

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proper view of the subject had not been presented to the Emperor; and the most unequivocal demonstration was given that no indemnity or satisfaction had been received, or even demanded, from France by the United States for this description of injuries.

At this day your Government must be aware that the umirage, and even the opinions, of France upon these questions, was liable to other and still more decisive objections. Of the use which France was already making, and was further contemplating to make, of Spain, of her revenues and possessions, not only in Europe, but in every other quarter of the globe, little needs to be said. That she was converting to purposes of her own all the resources of Spain, has been, since then, too signally manifested to the world to require further elucidation. It was impossible for her to recognise that Spain was bound to indemnify the United States for the spoiliations of French cruisers within Spanish jurisdiction, without acknowledging herself the debtor of Spain to the same amount. To call for her testimony, therefore, was to claim her as a witness in her own cause; to appeal to her opinions, was to make her the judge of her own delinquencies. By countenancing Spain in the denial of justice to others, she did but reserve her as a richer spoil for herself; nor can it be dissembled that the recourse of Spain, on that occasion, was rather to the predominating power than to the justice of France. These observations are made, not with the view of reproaching Spain now for the compliances with which she then sought and obtained the declarations of France in her favor upon her controversies with the United States, but to show the solid and irrefragable grounds upon which the United States may refuse all deference for the opinions, and disclaim all credit to the statements of France.

At the time when France had ceded Louisiana to the United States, her good offices with Spain to secure the acquisition of Florida to the United States had been explicitly promised. The letter of Mr. Monroe to Mr. Talleyrand, of 8th November, 1804, in reminding him of that engagement, had sufficiently shown that the Government of the United States, in calling upon France for the performance of her promise, had no intention of admitting her to arbitrate upon the extent of the concession which had been made by herself. True it is that she not only espoused the side of Spain, as considering it her own, but she even stimulated Spain to the denial of justice to the United States. As her motives, if Spain could be doubtful of them then, must be abundantly notorious now, it could scarcely have been expected that Spain should still recur to them as entitled to the slightest consideration or credit.

There is no principle of the law of nations more firmly established than that which entitles the property of strangers within the jurisdiction of a country in friendship with their own to the protection of its Sovereign by all the efforts in his power. This common rule of intercourse between all civilized nations has, between the

United States and Spain, the further and solemn sanction of an express stipulation by treaty. In violation both of the common usage of nations and of the express promise of Spain in the treaty, nearly two hundred vessels and their cargoes, belonging to citizens of the United States, were seized, many of them within the territorial limits of Spain, and under the cannon of her fortresses, by French cruisers; and all of them were condemned within Spanish jurisdiction.

You allege, *first*, that Spain has, in the cases to which reference is now made, actually carried into effect the obligations contracted by treaty; that she has used all her efforts for the defence and protection of this property. But in what have these efforts consisted? These were not cases of vessels seized by sudden violence, and carried away beyond her jurisdiction, before the officers appointed for the execution of her laws could be apprized of the wrong, and summoned to the performance of their duties. They are not cases of clandestine depredations, eluding the vigilance of the magistrates; they are cases of friendly merchants and navigators, frequenting the ports of Spain upon the faith of treaties, and for purposes of a mutual beneficial intercourse—seized, some of them, in the very harbors of Spain, by foreign cruisers, dragged on Spanish ground before a foreign Consul, and there plundered of their property before the face of all the lawful authorities of Spain, who neither raise a voice nor lift an arm for their defence. What, then, have been all the efforts of Spain for the protection of this property, conformably to the treaty?

You say, *secondly*, that Spain was not responsible for these depredations, because they were made by a nation with which the United States were not at war; and this you say immediately after quoting the words of the sixth article of the treaty, expressly stipulating protection and defence in the ports of Spain to the vessels and other effects of citizens of the United States, "whether they are at war or not with the Power whose subjects have taken possession of the said effects."

You observe, *thirdly*, that France and Spain were then allies in a war against England, and that Spain could not prevent the privateers of her ally from entering her ports. But it is not that the French privateers were allowed to enter the ports of Spain of which the United States complain, but that they were suffered to make prizes, and the French Consuls to condemn them within the territorial jurisdiction of Spain. You refer to the decision of a subordinate British court of admiralty that the prizes of a belligerent may be carried into the ports of an ally, and there lawfully condemned; but surely you do not mean to contend that the decisions of an admiralty court of one nation constitute the law of nations, or can even be adduced as authority for others. Of this principle, at least, there can be no doubt, that an alliance between two nations cannot absolve either of them from the obliga-

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tions of previous treaties. Now, the treaty between Spain and the United States, by which Spain was bound to protect the property of American citizens within her jurisdiction, was concluded before the alliance between Spain and France had been contracted; and the alliance could in nowise impair the rights of the citizens of the United States to the protection of their property, stipulated in their favor by the antecedent engagement of Spain.

Your fourth and last expedient for relieving Spain from responsibility for these losses and injuries, suffered by American citizens upon her territory, is the positive assertion that satisfaction has already been made for them by France; your only voucher for which is the letter of 27th July, 1804, from Mr. Talleyrand to Admiral Gravina. The assertions of that letter I have shown, by reference to indisputable documents, are utterly without foundation.

Your subsequent offer of the good offices of your Government near that of the present Court of France to obtain indemnities for American citizens for French depredations committed within Spanish jurisdiction, by virtue of an alliance between Spain and Napoleon, you doubtless did not expect to be accepted. It is to Spain alone, sir, that the United States still look, and will continue to look, as they always have looked, for those indemnities for which Spain alone is responsible to them. I am instructed to renew to you the declaration repeatedly made by the Minister of the United States to your Government at Aranjuez, in 1805, that no satisfactory arrangement can be made of the differences between the two countries which shall not include the adjustment of these injuries.

Before bringing this reply to your four successive notes to a close, it is necessary to advert to several incidental assertions and remarks, which you have made in relation to the negotiation at Aranjuez, equally destitute of foundation with the claims and pretensions to which this letter has already replied.

In your note of the 29th December, you affirm that the negotiation at Aranjuez was "early interrupted;" and in that of the 24th January, to confirm the assertion, that, if all the differences between the two countries have not long since been adjusted, it has not depended upon the Government of Spain, you say that this is "evident, beyond the possibility of denial, from the official correspondence between His Catholic Majesty's Minister of State and the Plenipotentiaries of the American Government, who suspended and gave up the negotiation at Aranjuez, after having obstinately refused to accept the modifications, founded on strict justice, which were proposed by the Spanish Government."

The negotiation of the special mission of the United States at Aranjuez, in 1805, occupied a period of nearly five months, from the beginning of January, when Mr. Monroe arrived at Madrid, to the 22d of May, when he took leave of the King to return to London. In his address to the King on that occasion, he said: "On my arrival

here I had the honor to assure your Majesty of the high consideration of my Government for your Majesty's person and Government. I then hoped to have had the honor to conclude the special mission with which I was charged, in conjunction with the Minister Plenipotentiary near your Majesty, to the advantage and satisfaction of both parties; but, being disappointed in this respect, all our propositions having been rejected, and none others ever offered on the part of your Majesty's Government, though often invited, it is my duty to return to my station at London." This assertion, made to the King of Spain in person, at the close of that mission, was fully warranted by the transactions under it. Every one of the topics now included in your four notes, as embracing all the subjects of difference between the two countries, was discussed at great length, much in the same manner which you have now insisted upon repeating. The questions of indemnities for spoiliations, Spanish and French, and for the suppression of the deposit at New Orleans, of the eastern and of the western boundary of Louisiana, were descanted upon with pertinacity as indefatigably by Don Pedro Cevallos as by yourself. He bestowed as many pages upon the terms *retrocede* and *retrocession* as you have done. He appealed with equal confidence and alacrity to the opinions, and cited with equal complacency the testimonials of the Ministers of Napoleon, and reminded Messrs. Monroe and Pinckney, with a satisfaction not inferior to your own, of the "very pointed" manner in which the French Minister of Foreign Relations, Mr. Talleyrand, announcing the sentiments of His Imperial Majesty, observed, that "to make known the rights which France had acquired, was to indicate the extent and the limits of those which she transmitted to the Federal Government." To everything that had the semblance of reason and argument, adduced in the successive notes of Mr. Cevallos, the American Ministers temperately and patiently replied; they unfolded, with a clearness and precision to which nothing can now be added, the claims of the United States, and the facts and principles by which they were supported. They proposed, at the commencement of the negotiation, a projet of a convention for the adjustment of all the interests in dispute. After all the subjects had been thoroughly discussed they presented a second projet, modified in the most conciliatory spirit of accommodation to Spain. They invited, and reiterated, almost to importunity, the invitation to a counter-projet, or proposals on the part of the Spanish Government. These unwearied efforts were met by a constant, invariable, inflexible refusal, either to accept their proposals, or to make to them any whatsoever in return.

You speak of the titles, dates, documents, and arguments, produced on the "part of Spain, at that negotiation, incontestably proving, by abundant and irresistible evidence, the rights of the Spanish monarchy to the territory in question."

If such had been the facts, where would be the pretence that the American Ministers had pre-

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maturely suspended or given up the negotiation? But Mr. Cevallos produced no such titles, dates, or documents; the only title ever alleged by him in support of the pretensions of Spain was the title of retrocession, applied to the Treaty of St. Ildefonso; the only date was that of 1690, which he assigned as the period of the first Spanish settlement of Texas, which date was five years later than the settlement of La Salle, at the head of the bay of St. Bernard; and the only documents were the dictatorial and menacing testimonials of the French Minister of Foreign Relations. That all the titles, dates, and documents then referred to were insufficient, in the estimation of your own Government, to establish the rights which you have claimed, is manifest from the efforts which you have made to bring forward others, and from the character of those to which you have resorted—an unknown, and, as it is believed, imaginary treaty of 1764, and a royal exterminating order of Philip II.

You perceive, sir, that the Government of the United States is not prepared either to renounce any of the claims which it has been so long urging upon the justice of Spain, or to acquiesce in any of those arguments which appear to you so luminous and irresistible.

Determined to pursue the establishment of their rights as long as by any possibility they can be pursued through the paths of peace, they have acquiesced, as the Message of the President at the commencement of the present session of Congress has informed you, in that policy of Spain which has hitherto procrastinated the amicable adjustment of these interests, not from any insensibility to their importance to this Union, nor from any indifference to the object of being upon cordial terms of harmony with Spain, but because peace is among the dearest and most earnest objects of their policy; and because they have considered, and still consider it more congenial to the principles of humanity, and to the permanent welfare of both nations, to wait for the favorable operation of time upon the prejudices and passions opposed to them, than to resort to the unnecessary agency of force. After a lapse of thirteen years of patient forbearance, in waiting for the moment when Spain shall find it expedient to meet their constant desire of bringing to a happy and harmonious termination all the conflicting interests between them, it will need little additional effort to wait somewhat longer with the same expectation. The President deems this course even more advisable than that of referring the questions depending between the two nations to the arbitrament or mediation of one or more friendly European Powers, as you have been authorized to propose. The statement in your note of the 10th of February, in reference to this subject, is not altogether correct. It is not the British Government which, on this occasion, has offered; but your Government, which, without first consulting or asking the concurrence of the United States, has requested the mediation of Great Britain. The British Government, as must be well known to you, have declined the offer of their mediation,

unless it should be requested by both parties; and have communicated to the Government of the United States this overture on the part of Spain.

The President has thought proper, from motives which he has no doubt will be deemed satisfactory both to Great Britain and Spain, to decline uniting in this request. He is indeed, fully persuaded that, notwithstanding any prepossessions which the British Government may have heretofore entertained with regard to any of the points in controversy, they would have been entirely discarded in assuming the office of a mediator. But it has hitherto been the policy, both of Europe and of the United States, to keep aloof from the general federative system of each other. The European States are combined together, and connected with one another by a multitude of important interests and relations with which the United States have no concern, with which they have always manifested the determination not to interfere, and of which, no communication being made to them by the Governments of Europe, they have not information competent to enable them to estimate their extent and bearings. The United States, in justice to themselves, in justice to that harmony which they earnestly desire to cultivate with all the Powers of Europe, in justice to that fundamental system of policy which forbids them from entering the labyrinth of European politics, must decline soliciting or acceding to the interference of any other Government of Europe for the settlement of their differences with Spain.

But however discouraging the tenor and character of your recent notes have been to the hopes which the promises and professions of your Government had excited, that the time for adjustment of these differences with Spain herself had at length arrived, the United States will not abandon the expectation that more correct views of the subject will ultimately be suggested to your Government, and they will always be disposed to meet them in the spirit of justice and amity. With regard to those parts of the province of Louisiana which have been incorporated within the State of that name, it is time that the discussion should cease. Forming part of the territory of a sovereign and independent State of this Union, to dispose of them is not within the competency of the Executive Government of the United States, nor will the discussion be hereafter continued. But if you have proposals to make, to which it is possible for the Government of the United States to listen with a prospect of bringing them to any practicable conclusion, I am authorized to receive them, and to conclude with you a treaty for the adjustment of all the differences between the two nations, upon terms which may be satisfactory to both.

With regard to the motives for the occupation of Amelia Island, the Messages from the President of the United States to Congress, and my letter to you of 16th January, have given the explanations which, it is presumed, will be satisfactory to your Government. The exposed and feeble situation of that island, as well as of the remainder of East Florida, with their local posi-



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tion in the neighborhood of the United States, have always been among the primary inducements of the United States for urging to Spain the expediency to the interests of both nations that Spain should cede them for a just and suitable equivalent to the United States. In the letter of the 28th of January, 1805, from Messrs. Pinckney and Monroe to Mr. Cevallos, the following passage stands prominent among the arguments used by them to that effect: "Should Spain," say they, "not place a strong force in Florida, it will not escape your excellency's attention that it will be much exposed to the danger of being taken possession of by some other Power, who might wish to hold it with very different views towards Spain than those which animate the Government of the United States. Without a strong force being there, it might even become an asylum for adventurers and freebooters, to the great annoyance of both nations."

You know, sir, how far the events, thus anticipated, and pointed out so early as in January, 1805, to the prudent forecast of Spain, have been realized. Pensacola has been occupied by another Power, for the purpose of carrying on war from it against the United States; and Amelia Island has been occupied by adventurers, to the great annoyance of both nations, and of all others engaged in lawful commerce upon the Gulf of Mexico. Before these events occurred the Congress of the United States, aware of the great and growing danger of them, which had been so long before distinctly foreseen, had made it the duty of the Executive Government, in the case of such a contingency, to take the temporary possession of the country, which might be necessary to avert the injuries that must result from it. Amelia Island was taken, not from the possession of Spain, but of those from whom she had been equally incapable of keeping or of recovering its possession, and who were using it for purposes incompatible with the laws of nations and of the United States. No purpose, either of taking or of retaining it as a conquest from Spain, has ever been entertained; and, unless ceded by Spain to the United States, it will be restored whenever the danger of its being again thus occupied and misused shall have ceased.

It is needless to add, that the proposal that the United States should take any further measures than those already provided for by law, for preventing armaments hostile to Spain within the territories of the United States is inadmissible. The measures already taken, and the laws already existing against all hostile armaments within our jurisdiction, incompatible with the obligations of neutrality, are sufficient for its preservation, and the necessary means will continue to be used, as they have been, to carry them faithfully into execution. I have the honor to be, &c.

JOHN Q. ADAMS.

A. No. 1.

*Don Martin D'Alarconne to M. De la Harpe.*

TRINITY RIVER, May 20, 1719.

MONSIEUR: I am very sensible of the politeness

that M. De Bienville and yourself have had the goodness to show to me. The orders I have received from the King, my master, are to maintain a good understanding with the French of Louisiana; my own inclinations lead me equally to afford them all the services that depend upon me, but I am compelled to say that your arrival at the Nassonite village surprises me very much.

Your Governor could not be ignorant that the post you occupy belongs to my Government, and that all the lands west of the Nassonites depend upon New Mexico.

I counsel you to give advice of this to M. Bienville, or you will force me to oblige you to abandon lands that the French have no right to occupy.

I have the honor to be, &c.

D'ALARCONNE.

B. No. 2.

*Monsieur de la Harpe to Don Martin D'Alarconne.*

NASSONITE, July 8, 1719.

MONSIEUR: The order from His Catholic Majesty to maintain a good understanding with the French of Louisiana, and the kind intentions you have yourself expressed towards them, accord but little with your proceedings. Permit me to inform you that M. de Bienville is perfectly informed of the limits of his government, and is very certain that the post of Nassonite depends not upon the dominions of His Catholic Majesty. He knows, also, that the province of Lastekas, in which you say you are Governor, is a part of Louisiana. M. de la Salle took possession in 1685, in the name of His Most Christian Majesty; and, since the above epoch, possession has been renewed from time to time.

Respecting the post of Nassonite, I cannot comprehend by what right you pretend that it forms a part of New Mexico. I beg leave to represent to you that Don Antoine du Miroir, who discovered New Mexico in 1683, never penetrated east of that province or the Rio Bravo. It was the French who first made alliances with the savage tribes in this region; and it is natural to conclude that a river that flows into the Mississippi, and the lands it waters, belong to the King, my master.

If you will do me the pleasure to come into this quarter, I will convince you I hold a post I know how to defend.

I have the honor to be &c.

DE LA HARPE.

C. No. 3.

On the 10th of August, 1721, M. de la Harpe received the following order:

We, John Baptiste de Bienville, chevalier of the military order of St. Louis, and commandant general for the King in the province Louisiana:

It is hereby decreed that M. de la Harpe, commandant of the bay of St. Bernard, shall embark in the packet the Subtile, commanded by Berenger, with a detachment of twenty soldiers under M. de la Belile, and shall proceed forthwith to the bay of St. Bernard, belonging to this province, in the name of the King, and the west company shall plant the arms of the King in the

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ground, and build a fort upon whatever spot appears most advantageous for the defence of the place.

If the Spaniards, or any other nation, have taken possession, M. de la Harpe will signify to them that they have no right to the country; it being well known that possession was taken in 1685 by M. de la Salle, in the name of the King of France, &c. **BIENVILLE.**

## D. No. 4.

*Extracts, translated from the "Diccionario Geografico Historico de las Indias Occidentales ó America," by Colonel Don Antonio de Alcedo, captain of the royal Spanish guards; printed at Madrid in 1786-'89, by the permission of Government, and dedicated to the Prince of Asturias, afterwards Charles the Fourth.*

"*Louisiana*, a province and government of North America, one of the two which form new France, bounded on the south by the Gulf of Mexico; on the north by the river Illinois and the Indian tribes of the Pamasus, Paoducas, Osages, Tronontes, Tecagas, Chavanons, and others; on the east by West Florida, Georgia, and Carolina; and on the west by New Mexico and New Spain. Its extent from north to south is about fifteen degrees; that is to say, from the twenty-fifth to the fortieth degree of north latitude; and from east to west ten or eleven degrees, between the eighty-sixth and ninety-sixth degrees of west longitude; its limits, however, not being precisely fixed, M. de Lisle gives it a much greater extent, particularly towards the north, where it borders on Canada; and, according to him, it is afterwards bounded by New York, Pennsylvania, Virginia, &c., and to the west by the rivers Bravo and Salado."

"*Missouri*, an Indian tribe of the province and government of Louisiana, inhabiting the banks of the river of the same name, on which a fort was built by the French for defence of that establishment."

"*Natchitoches*, or *Natihetoches*, as pronounced by some, a tribe of Indians of the province and government of Louisiana, in North America, living fifty leagues up the Red river, by which name they are sometimes called. This tribe has always been friendly to the French, and hostile to the Spaniards; is very numerous, and has upwards of two hundred cabins. The French soldiers who had completed their time of service settled in an island in the Red river, where they built a fort, and called it Natchitoches; but having planted tobacco, and discovered that the sand blown on it by the wind gave it a bad quality, they removed their settlement to the main land, where they succeeded in cultivating that plant, so as to give it a particular estimation; it is sixty leagues from New Orleans."

"*Rouge*, (Red river,) a large and rapid river of the province and government of Louisiana, in North America, takes its rise about the tribe of the Cannesis, runs southeast, and, after receiving other streams, changes its course to the south as far as the tribe and fort of Natchitoches, where

it again turns to the southeast, forms several lakes and islands, and thence, running eastward, joins the Mississippi much increased, near where the river empties into the sea."

## E. No. 5.

*Extract from a paper communicated by Messrs. Pinckney and Monroe to Mr. Cevallos, dated*

ARANJUEZ, May 12, 1805.

From the 1st of October, 1796, until the —, there were brought into the ports of His Catholic Majesty, in Europe and Africa, by the French, 168 vessels.

Of the above have been condemned	-	-	74
Acquitted, ransomed, or compromised	-	-	23
Cases of violation of the Spanish territory, condemned	-	-	13
Run ashore and lost	-	-	1
Unaccounted for	-	-	7
Result not known	-	-	50

Total - - - - 168

*A statement of facts relative to American vessels taken by French privateers, and condemned in Spanish ports, obtained from the most authentic sources.*

Of the French spoliations, there have been fifty appeals from the consular judgments in Spain to the Council of Prizes at Paris, of which thirty have been released, nine condemned, and twelve are yet depending. Not one *sous* has been paid in any case, nor is there a single case of such spoliations on the list of liquidations now at the French treasury, which are to participate of the twenty millions of livres to be paid by the United States to their citizens, under the treaty of 1803, on account of French spoliations. The American Minister never did demand payment of French spoliations made in Spain, knowing them as such; nor did the American agent ever demand it by his order or knowledge. The first intelligence which the American Government had of appeals being permitted from the French consular tribunals in Spain to the Council of Prizes in France was received from Spain herself.

As soon as it was received, the Secretary of State wrote to the American Minister in Paris to know what the fact was, and instructed him, at the same time, to prohibit the agent from acting in such cases; it having been, at all times, the opinion of the Government that Spain alone was answerable, of whom only has the recompense been demanded.

*Don Luis de Onis to the Secretary of State.*

MARCH 23, 1818.

SIR: I have read with deliberate reflection the note which you addressed to me on the 12th of this month, in reply to those which I had the honor to write to you on the 29th December, and on the 5th, 8th, and 24th January, of the present year, on the different points embraced in the dispute hitherto pending between the Government of the United States and that of Spain.

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After examining, with the strictest impartiality, all the data and arguments advanced by you, without yielding to any other impressions than those inspired by the sincere desire of ascertaining the truth of facts, and the propriety of their application to the several points in dispute, I cannot but express to you, sir, that it has not been possible for my reason to discover anything capable of forming a just exception to the principles and grounds which support the rights sustained by His Catholic Majesty's Government, as notorious, and hitherto undisputed with the Crown of Spain.

I perceive that, on the question of boundaries, you still maintain the same pretensions as those advanced by Messrs. Pinckney and Monroe, at Aranjuez, to the Spanish Government—pretensions which it appears to me impossible to exist, after weighing the arguments adduced by the Secretary of State of His Catholic Majesty, Don Pedro Cevallos, and again urged more at length and with sufficient conviction, in my judgment, in the notes which I had the honor to address to you.

On the subject of the eastern boundaries of Louisiana, you insist they should be extended by West Florida to the river Perdido, although this pretension has no other foundation than the particular and specious interpretation attempted to be given to the clauses of the treaty concluded between France and Spain in 1800, for the retrocession of Louisiana. But I do not conceive how these clauses can admit such an interpretation, because it gives a strained interpretation to and inverts its proper import, is contradictory to the intention of the contracting parties, and attributes to their contract a latitude which does not appear in it. How can it be imagined that West Florida, or any part of it, should be the object of the treaty of 1800, when, throughout the whole of it, there does not appear a single word referring or alluding to that province, or any mention being made of it? Did there ever exist a public treaty, or even a simple transaction between private persons, stipulating a thing of which the slightest mention is not made? Certainly not. Besides, the two contracting parties declare and maintain that it was not their intention to include, nor did they include, Florida, or any part of it, in the retrocession. How, then, can the contrary be maintained, merely by the help of a particular conception or conjecture? The objections you make against the personal character of the Minister Talleyrand, and the temper of the French Cabinet at the time of Napoleon, can never weaken the authority of the solemn declaration of the Government of France. You will also recollect that the same Government gave the assurance that it had ordered them to be communicated to that of the United States, and that the Spanish Government brought them forward as soon as the present dispute was set on foot, which they could not be before, as the possibility of this case did not enter into their contemplation, nor could they calculate on its being objected to without necessity or just reason.

Notwithstanding, therefore, your ingenious ar-

guments, I continue in the firm persuasion that the three clauses of the Treaty of San Ildefonso neither can nor do in any manner admit of the comment or abstract interpretation which is now attempted to be given to them, and that it is impossible to vary the obviously genuine and literal sense in which they have ever been understood by the Governments of France and Spain.

You say, and affirm decisively, that the secret convention between Spain and France, by which the Most Catholic King ceded Louisiana to His Christian Majesty, did not take effect in 1764, but in 1762, one year before the general treaty of peace concluded at Paris 10th February, 1763, by which the Floridas were ceded to Great Britain. If that be so, I confess I cannot comprehend or reconcile the concluding clauses inserted in the seventh article of the same treaty, which run as follows: "The Most Christian King cedes to His Britannic Majesty, in full property, the river and port of Mobile, and all that he possessed or ought to have possessed on the left side of the river Mississippi, with the exception of the city of New Orleans, and of the island in which it is situated, which shall remain to France." How is it, then, that in this treaty the bay and port of Mobile are ceded to England, and all that France possessed or ought to have possessed on the left of the Mississippi, with the exception of the island and city of New Orleans, which are expressly to remain in France? How could they remain to France, if in the former year they had been ceded to Spain? We must deny the faith of this treaty, or admit that the cession made to Spain did not take effect until a subsequent period; and by a necessary consequence, that when France made the said cession to the Crown of Spain, she possessed nothing more in that part of the American continent, since she had before ceded all to Great Britain; it being notorious, moreover, that France continued in the dominion and possession of the delta of Louisiana until the 19th of August, 1769, at which time she delivered up that province to Spain, and into the hands of General O'Reilly. By this we are convinced of the true understanding of the three clauses of the treaty of 1800. Louisiana did not then include, in the hands of Spain, any part of the Floridas, nor did France possess more than the delta of New Orleans when she ceded and delivered it to Spain. To these two undeniable facts do the first and second clauses of that treaty refer; the third refers to what appears in the treaties which afterwards followed between Spain and other Powers. If it is not wished to introduce confusion where there is none, it is necessary to ascertain the precise period at which the time began that this clause refers to. I do not see that any other can be found than that when France ceased to possess the delta of Louisiana; and if the cession made by her to Spain was effected after that made by France and Spain to England on the 10th of February, 1763, it is evident that this clause could not refer to the Treaty of Paris concluded the same day and year, but to those which were subsequent to it, as the same clause expressly declares.

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In my note of the 5th of January last, I cited the treaties to which this treaty could and did refer, and pointed out at the same time the meaning and object of the contracting parties in framing its stipulation, by referring to the treaties themselves. I discover nothing to weaken the force and propriety of what I then proved to you, nor do I think that there can be anything advanced without altering or destroying the decisive sense of the clauses of the Treaty of St. Ildefonso.

The ingenuity of logic may suggest evasions, but never can furnish solid arguments to maintain the contrary; and as it is our duty only to ascertain the truth, we must confine ourselves to the literal text of the treaty of retrocession, and to that of others referred to in it. Notwithstanding Don Pedro Cevallos, in his letter of 24th February, 1805, to Messrs. Pinckney and Monroe, only spoke of the treaties concluded between Spain and England in 1783, and between Spain and the United States in 1795, that neither is nor can be a reason why we may not now refer to some other treaty capable of shedding light on the points in question. In fine, I consider it as a point fully demonstrated and indisputable, that Spain retroceded Louisiana to France only as she had received it from her, and as she then possessed it, without any connexion whatever with Florida.

I cannot conceive how the plain and decisive clauses of the treaty of 1800 can be susceptible of any other interpretation which is in perfect accord with the tenor of the royal cedula issued by His Catholic Majesty, at Barcelona, on the 15th of October, 1802, for the purpose of completing and carrying into effect the act of the retrocession of Louisiana. His Catholic Majesty therein declares that he has retroceded Louisiana, and gives orders for its delivery, with the same extent it now has, and that it had under the dominion of France, when ceded by that Power to his Royal Crown. You are aware, sir, that it was by virtue of the royal cedula that the retrocession of the said province took place, and that it is a document regulating and explanatory of the contract passed at St. Ildefonso. As such was it received by France, who, on taking possession of Louisiana in virtue of the said royal cedula, and in conformity thereto, never exacted or pretended to anything more.

In consideration, therefore, of treaties, documents, and acts of so solemn a nature, which decide the question with the greatest precision and clearness, no room is left for personal doubts or individual opinions.

I now pass, sir, to your observations on the question of the western boundaries of Louisiana.

I have before said, and now repeat it to you, that the King, my master, glories in the religious observance of all existing treaties between Spain and other Powers, and sincerely desires that, in conformity with them, and the inviolable principles of general justice and public good faith, the limits which separate or ought to separate Louisiana from the provinces and territories possessed by His Majesty to the westward thereof should be carefully examined, investigated, and deter-

mined. He has proposed as a basis of this inquiry the *uti possidetis*, or state of possession by France when she ceded Louisiana to the Crown of Spain, and has moreover admitted in the basis all that Spain delivered to France, as incorporated in Louisiana, and all that was stipulated in favor of the United States by the treaty of 1795. I conceive there can be no other basis of an examination, investigation, and final demarcation of the said boundaries, if we are to regulate them agreeably to public treaties, and the solemn principles of justice and good faith. This basis being admitted, such as I propose it, all the equivocal expressions and interminable disputes to which the contradictory narratives of the early French missionaries and settlers who penetrated into this part of America have opened so wide a field, would at once be put an end to. In fact I cannot persuade myself that such narratives are entitled to a place either in diplomacy or in sound criticism.

In my note on the question of the western limits of Louisiana, I likewise touched on the principal facts, data, and grounds on which the notorious right of the Crown of Spain to the territories in dispute is founded. These facts, data, and grounds, do not receive their credit or support from the tales or narratives of travellers, missionaries, or adventurers who may have made excursions in America, nor from the memoirs or writings which have since been published, and are merely copies of these narratives and marvellous tales.

They receive their credit and support from titles and documents of the most unexceptionable character, as will be shown in due time, having confined myself to indicating them to you, and conceived that it was not absolutely necessary to accompany my notes with the volumes of books, papers, and documents, extant on the subject, because that would have been too troublesome, and because the Crown of Spain being from time immemorial in possession of the territories to which your Government forms pretensions, that fact alone was sufficient to resist them, seeing that on the part of the United States no documents or titles were exhibited which could support their right to the territories in question. Let us see, then, on what your Government founds these pretensions, and how they are supported by you in your note of the 12th instant. The following are the data stated by you, and on which you say the United States found their claims:

1. The discovery of the Mississippi from near its source to the ocean by the French from Canada, in 1683.

2. The possession taken, and establishment made by La Salle, at the bay of St. Bernard, west of the rivers Trinity and Colorado, by authority from Louis XIV., in 1685.

3. The charter from Louis XIV. to Crozat, in 1712.

4. The historical authority of Du Pratz and Champigny, and of the Count de Vergennes.

5. The geographical authority of De Lisle's map, and especially that of the map of Don Thos.

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Lopez, geographer to the King of Spain, published in 1764, [1762.]

Such are the data or grounds alleged by you in support of the pretensions of your Government, and to refute what I have advanced in defence of the rights of Spain.

I now proceed to answer each one of these data, or grounds, by reproducing those which I urged in my former note, and presenting them in their aspect and true light.

As to the first, I maintain that long before Joliet, Marquette, and Hennepin, or any other Frenchman, had penetrated from Canada as far as the banks of the Mississippi and Arkansas, the Spaniards had discovered and explored both those rivers in different and repeated expeditions which took place from the time that Juan Ponce de Leon discovered the coast and country of Florida, and took possession of them in the name of the King of Spain, in 1512. These expeditions were not, as you say, made by travellers, but by Spanish commanders, acting under the orders and authority of their Government, and with vessels, troops, artillery, and other means necessary for carrying their enterprises into execution. Consequently it is of little consequence that Joliet, Marquette, and Hennepin, or others, may have traversed the country from Canada, and met with rivers and territories which, many years before, had already been discovered by Spaniards, and included in the dominions of the monarchy. What armies did Joliet, Marquette, and Hennepin, take with them to dispute this country and its rivers with the Crown of Spain? What settlements did they found and maintain there? Such excursions as these neither give nor could give France any right to those rivers and countries, nor could she have any secure dominion over the soil, if we admit the principle that such invasions confer the right of property on the nation to which the individuals making them happen to belong.

Nor is the argument deduced by you from the expedition undertaken by La Salle more fortunate. It is the second of the grounds on which your Government founds its claims. I also maintain that La Salle never made but one excursion into the country already known to the Spaniards, and incorporated in the dominions of the monarchy. There exists sufficient documents and testimony to prove that the Spaniards had entered the bay of St. Bernard long before, and had taken possession of it and of the whole country on the coast and into the interior. The fort built by La Salle for his defence against the Indians could confer no right on France to that bay, or to that country; and it is a certain fact that the Viceroy of New Spain, on receiving advice of this incursion, immediately despatched a force; they had been unfortunate; they no longer existed; and the expedition sent from New Mexico met with nothing more than the shattered fragments of one of their vessels at the entrance of the bay. More effectual measures were afterwards adopted by the Government of Spain for the defence of the coast and preservation of the interior of the country; so

that there is no recollection, even in the narratives and wonderful romances of the early French settlers and travellers, of any individual of that nation having afterwards made the smallest attempt against the bay of St. Bernard.

The third ground cited by you is the famous charter granted by Louis XIV. to M. Crozat. A wretched document, indeed! It may in truth be said that this charter of Louis XIV. is very like that you mention, granted by the Pope's bull, in which, seated on his chair at Rome, he divides unknown seas and lands between Spain and Portugal. By what authority could Louis XIV. bestow on Crozat the territories and rivers discovered and possessed by Spain in that part of the new world? From everything that appears, it is plain that they who granted this cession or charter in the name of Louis XIV., had no knowledge nor any exact idea of the situation, extent, or circumstances of the country they were speaking of. They were equally ignorant of the extent of the acquisitions and dominions of Spain in that part of America, and proceeded under the impression of the tales and flattering narratives of the early French explorers, and principally that collected by the missionary Hennepin from his own imagination, published at Paris, and dedicated to Colbert, or, it may be, to Louis XIV. The Spanish Government always viewed this grant with contempt, and went on in the peaceable possession of those dominions, extending their settlements as circumstances permitted, and founding towns and forts as they found it convenient. It always opposed the invasions and incursions of the French, and I cannot conceive how the royal orders issued by Philip II., which you term *sanguinary*, or those successively issued by other Spanish monarchs to preserve and defend their dominions by expelling the foreigners who attempted to invade them, can be called sanguinary acts. The fact is, that these royal orders were duly carried into execution; whereas the grant, so much cried up, remained a dead letter.

In my letter of January last, I stated to you the manner in which the French got a footing in the bay of Biloxi, and afterwards spread themselves on the lower shores of the Mississippi, by the permission or toleration of the Spanish Government. It is, therefore, superfluous to dwell longer on this point.

4th. As to what regards the fourth ground which you have adduced, I am at a loss to perceive how it can answer the purpose intended. Whatever authority Du Pratz, Champigny, and the Count de Vergennes, may be entitled to in matters of history, it is unquestionable that all they wrote on Louisiana and countries adjacent was taken from the incorrect, exaggerated, and marvellous narratives of the early French travellers, explorers, and settlers; and it is no less so that their assertions or notions are contradicted by facts and truths of the most decided authenticity and notoriety.

In addition to what has been laid down by the most respectable Spanish historians and chroniclers of those early times, and by subsequent wri-

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ters, there exist unexceptionable acts, despatches, and documents, transmitted by the Council of the Indies in Spain to the tribunals, secretaries, officers, and others in Mexico, as well as to those in other parts, and also to several in the island of Cuba, which prove the facts I have pointed out to you in my aforesaid note of the 5th of January last. Nor are there wanting documents and proofs to be found in different writings and memoirs by foreigners, corroborating the certainty of the same facts, and completely confuting and destroying the idle tales and fanciful description which the missionary Hennepin has foisted into his memoir dedicated to the French Government. Nothing is to be found in the famous grant of Louis XIV., in the writings of Du Pratz and Champigny, or in the memoir of the Count de Vergennes, invoked by you in support of the pretensions of your Government, which is not a multiplied repetition of what has been imagined and written by that French missionary. These tales and flattering descriptions pass from mouth to mouth among the adventurers, traders, and settlers from Canada to Biloxi; and as that nation has an itch for writing and publishing everything that flatters the imagination, it is not surprising that we find the same wanderings, fables, or errors in many writings published by them. But you are sensible, sir, that tales and narratives of this description are inadmissible, both in diplomacy and sound criticism, which will only admit unexceptionable titles and legal documents. The same remark will apply to what was written by the Chevalier Tonti, cited by you as a decisive and incontestable proof of your assertions. Although the facts or things referred to in it were admitted, they would prove nothing in favor of their intended application, nor in the least weaken the force of antecedent titles and facts, on which the Spanish Government found their resistance to the unbounded and absolute pretensions of the United States.

I proceed to the fifth ground advanced by you—"the geographical authority of Mr. De Lisle and of Don Thomas Lopez." I think there can be little doubt that Mr. De Lisle framed his map on the same erroneous data and fabulous description I have spoken of in the preceding paragraph. It is a well known fact that Don Thomas Lopez, wholly uninformed respecting the country he wished to delineate on his map, copied from that of Mr. De Lisle all the errors remarked in it; and the same happened, with little variation, to Don Antonio Alcedo. You cannot but have noticed, sir, the numerous errors, ambiguities, and extravagances, which are to be found in the works of a multitude of geographers and writers who treat of subjects they have never seen, or taken the pains to verify with critical exactness. The circumstance of Don Thomas Lopez having been Geographer to the King of Spain neither adds nor gives any authority to his map, because he neither drew it up nor published it under the authority or by order of His Majesty's Government; and the errors into which he or Alcedo may have fallen, do not, nor can they in the least, prejudice

the rights of the Crown of Spain, or change the nature of things, or the positive certainty of facts. In opposition to the errors of that Spanish geographer, to those of Alcedo, and of the Frenchman De Lisle, from whom they copied them, we have the testimony, in everything substantial, of all the maps and charts that have been published from the most accurate knowledge of the country, and conformably to the treaties concluded between those Powers which possess or did possess dominions in that part of America. Among the French themselves, you may examine the maps of D'Anville, Janvier, Bonne, and others; likewise that published at London in 1757, by Emanuel Bowen, Geographer to His Britannic Majesty; that published at London by Carrington Bowles, according to the observations of the Royal Academy of Sciences; the American Atlas, or geographical description of the whole American continent, according to the observations and researches of Major Holland, Lewis Sevans, [Evans,] Julian Scull, &c., published at London in 1778, by Thomas Jeffreys, Geographer to the King, and others; the large map of New Spain, and countries bordering on it, published by Baron Humboldt; and the map published by I. B. Pierson in 1811, from the former.

I might cite many others, not only by Spanish geographers, but also by foreigners; but I deem it superfluous, under a thorough conviction that nothing can be found in opposition to the data and grounds I have advanced, but what appears in writings and maps composed at pleasure, and wholly incompatible with public treaties, and the most notorious and undeniable facts and truths.

The observations I have just made appear to me sufficient to destroy the weight of the data you have laid down as forming the grounds of the pretensions of your Government. I am aware that they have been already advanced, as you remark, by Messrs. Pinckney and Monroe, at the time of the discussion at Aranjuez; but as they were then completely refuted, I did not suppose they would be again brought forward. I have, indeed, seen the same data referred to in several writings published in this country since the acquisition of Louisiana by the United States, and maps formed here on bases assumed by those formerly published, abounding in errors and unsupported positions; but I did not, nor do I, conceive that they can have the smallest weight when opposed by facts and the principles most respected among nations.

You state that the United States can cite to me the geographical work, published at London in 1712, [1717.] entitled *Atlas Geographicus*; the British map, published in 1755, by Bowen; the narratives, published at Paris, of Hennepin, in 1683; of Tonti, in 1697; and of Joulet, [Joutel,] in 1713; the letter from Colonel La Harpe to Don Martin de Alarconne, of 6th [8th] July, 1719; the order from the French Governor of Louisiana, Bienville, to La Harpe, of 10th August, 1721; and, finally, the geographical work of Don Antonia Alcedo, and the map of Don Thomas Lopez. It is very certain that the United States

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may cite these writings and maps, and many others, founded upon the data above alluded to; but it is no less certain that such writings and maps are wholly undeserving of credit, being founded on narratives void of truth, or on the most doubtful ideas, in direct contradiction to public facts and the most solemn treaties, and completely disproved by the authentic and unquestionable history of the Spanish discoveries and settlements, as well as by an immense number of documents, beyond the reach of contradiction, which prove my assertion. I am perfectly aware of the attempts of the French to encroach on the Spanish dominions when they were in Louisiana, and to give a color to their pretensions by recurring to the vague expressions of Louis XIV., and the romances of Hennepin and others, but which were never formally urged or sustained by his Government, and were always treated as absurd by Spain. The wish of the French speculators, traders, and settlers, to spread themselves in the territories of the Crown of Spain, and countries bordering on them, and make incursions into those territories, has nothing wonderful in it; because, the greater part of those territories being desert, and the French being then exclusively engaged in the navigation of the Mississippi, it was quite natural for them to penetrate into the adjacent countries, for the purpose of trading with the Indians, as it was for them to wish to establish posts or settlements for the benefit of their trade. But this, assuredly, has no connexion with the right you state they acquired to the whole of the immense country extending to the river Bravo.

The fact, which neither can nor does admit a doubt, is, that Spain has constantly been the mistress and possessor of that country, and of all the territories now contended for by the United States, during the whole period that Louisiana was held by France, and much earlier, with the exception of the points and districts which have been taken possession of by the United States. The French themselves never carried their pretensions beyond the space comprehended between the left bank of the Rio Roxo, (Red River,) as far as the point of Natchitoches, the bank of the Mississippi, the adjacent coast, where the river Caricut, or Calcasia, empties into the gulf, and the left bank of that river, which was always considered the boundary, to its source, between the Spanish province of Texas and French Louisiana; and this is the reason why France never made the smallest opposition to the building of the three presidios or forts, Nacogdoches, Oresquezac, and San Miguel de los Adaes, by Spain. How, then, could it be contended that, in the face of facts so undeniable, of titles of property of the most genuine character, and of uninterrupted possession from time immemorial, the vague pretensions of the French should be entitled to any weight, since they have no other foundation than the incorrect, contradictory, and absurd narratives of the early travellers, explorers, and traders of that nation, who made momentary excursions from Canada and the bay of Biloxi

into that vast country? I shall now present the data extracted by you from my note of the 5th January last in their genuine sense and true aspect.

1. Discovery of the Mississippi, of the Arkansas, and of the Rio Negro to its source, by the Spaniards, under Don Alonzo de Soto, in 1541. Discovery of Florida, and possession taken of the eastern part thereof by the Spaniards, under Don Juan Ponce de Leon, in 1512. Continuation of discoveries and settlements in Florida by the Spaniards, in 1525, under Vasquez de Ayllon; in 1527, under Panfilo de Narvaez; in 1538, under Adelantado Hernando de Soto; and successively by the Spanish governors of that province, which then comprehended the whole country from the Rio de las Palmas, which is the boundary of Panuco, to latitude 48°, extending more than six hundred leagues, and crossing the Mississippi; the whole being carried on by means of regular expeditions, composed of vessels, troops, artillery, and every requisite for carrying them into execution.

2. Dominion of the Crown of Spain over the whole coast of the Gulf of Mexico, and the vast regions in the interior of Florida and Mexico, from the beginning of the sixteenth century; the Kingdoms of Leon and Santander, founded in 1579 and following years; the Kingdom of New Mexico, founded in 1595; the province of Cohaguila, a few years afterwards; and that of Texas, after 1690.

3. Successive increase by Spain of settlements, towns, and forts, at the places judged most suitable, in the interior provinces of Mexico and in Florida; she remaining in possession of the whole coast, and defending it, as often as occasion required, against the invasion or incursions of foreigners, down to the latter times.

In support of these data, there is alleged, on the part of Spain, a notorious and indisputable right of first discovery and first occupation or conquest, and that of uninterrupted possession to the present time, which refer to a long course of public facts and authentic documents, and by which they are identified and proved, on the highest testimony of which human events are susceptible. And what has been replied to all this, on the part of the American Ministers at the Court of Spain? They threw themselves back, if I may say so, upon the same data and allegations which they had at first advanced, and are now again brought forward by you, without producing any additional facts that can strengthen your pretensions—the famous grant of Louis XIV. to Crozat; the transient incursions, or, if you are pleased to call them so, the formal expeditions of Bernard de la Salle; some point or another occupied by the French, at distinct periods, on the coast of Florida and on the lower shores of the Mississippi; the post they were permitted to hold in Illinois; and those they also obtained in the immediate neighborhood of the Rio Roxo (Red River) and the Arkansas. That is all; and that is considered sufficient to confer on France the right of property to the whole extent of those

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immense territories, and to dispossess Spain of the ancient possession and dominion over them! I am at a loss to conceive on what this mode of reasoning can be founded.

The grant of Louis neither has nor can have any value, no more than any other grant issued by another monarch or government, in like cases, could be valid, if the countries thus disposed of were not in possession of Louis XIV., or if France had no well-founded right to them. Now, then, the countries to which your Government forms pretensions, westward of the present Louisiana to the Rio Bravo, were never in the possession of Louis XIV., nor of any other monarch of France, as you will certainly admit. As to which forms the point of right, I know of nothing on which Louis XIV. could have founded it but the incursions of La Salle, and those of some trader or missionary.

I wish not to rob La Salle of the glory you are disposed to allow him for his brilliant enterprises and sublime philanthropy. But what I have alleged, and can prove by the fullest evidence of which facts of this nature are susceptible, is, that La Salle did nothing more than traverse from Frontenac to the shores of the Mississippi, through territories which, although included in the dominions of the Crown of Spain, were still desert, and without forts or garrisons to check the incursions of that French adventurer; that nothing resulted from them. The fort of Crèvecœur, which was necessary for his protection against the Indians, was immediately destroyed by them; and that said to have been left under the command of Ribaut was destroyed by the Spaniards, who, headed by Governor Melendez, attacked it without loss of time, and made prisoners of Ribaut and his whole party. The same happened in the case of the unfortunate shipwreck of La Salle on the coast of the province of Texas. He was enabled to save himself by landing at the bay of St. Bernard; and, flying from the Indians, proceeded upwards by the banks of the Trinidad river. He then raised a redoubt or fort to defend himself against their attack, and, leaving several of his party there, he advanced into the interior of the country, and fell a victim of assassination. The Indians immediately demolished the fort, and barbarously sacrificed the few French in it who had not been able to make their escape. An expedition was despatched by the Viceroy of Mexico, with a competent force, to repel La Salle's invasion, the moment he received notice of it. This expedition advanced a great distance into the country, and descended as low as the bay of St. Bernard, as I have already said, but met no Frenchmen, or other foreigners. From that time the dominion of the Crown of Spain to that whole coast, and all the territories of that province, was preserved with perfect tranquillity; and towns were quickly founded, and forts built wherever they appeared necessary for defence. Can there be a reason, then, for attributing to the French a right to that whole coast, and those extensive territories, from the simple occurrence of these momentary incursions, or, it may be,

expeditions, which miscarried without effecting anything?

I declare, too, that I do not wish to derogate from the veneration and confidence with which you consider Father Hennepin. But I can never believe the fabulous tales and fictions which abound in his narrative dedicated to Colbert. We may judge of the confidence it deserves from the following tales:

1. His descent from the mouth of the Illinois river to the mouth of the Mississippi (a distance of more than 1,350 American miles) in seventeen days, passing the nights on shore, and delaying a considerable time among the Indians, and in search of provisions.

2. He and two others, in a canoe, stemming the current of the Mississippi from the mouth of that river to the Illinois in twenty days. It is unnecessary to cite the other absurdities and fables scattered throughout his narrative, and I shall content myself with reminding you that, on the testimony of the Swedish naturalist Kahn, the opinion entertained of Hennepin, in Canada, is expressed in the following words: "The name of honor they give him there is *the great liar*; he writes of what he saw in places *where he never was*."

In fine, I think it easy to prove that all which of right belongs to the United States is Louisiana such as it was ceded and delivered to Spain by the Government of France, with the addition of those points and districts with which Spain retroceded it to France, and of such as, by public treaties, were annexed to it in favor of the United States. I go farther: although France might have an unquestionable right to other points and districts eastward and westward of that province, (which is not admitted,) she lost it from the moment she ceded and delivered to England all she possessed in Florida, and to the left of the Mississippi, with the exception of the city and island of New Orleans. By this cession and delivery, all the rights whatsoever which France could have beyond the delta of Louisiana were transferred to the Crown of England; and as Spain only retroceded to France what she had received from her, to nothing more could France have a right in virtue of the treaty of 1800. Whatever abstract reasoning or subtle arguments may be resorted to, it will be impossible to prove anything else, because it is impossible now to alter or amend the treaty, or to claim that which is not stipulated in it. I, therefore, have said, and I now repeat, that, to terminate this controversy, nothing is more just and natural than to recur to the period when France completed the cession and delivery of Louisiana to Spain, to establish what France then ceded to Spain, and what she retroceded and delivered in virtue of the treaty of St. Ildefonso. These preliminary points being determined, and the bases laid down which are their natural consequences, the subsequent arrangements will be attended with no difficulty.

The Government of Spain is prepared to produce all the titles and documents which I have cited, and many others I did not hitherto cite,



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judging it unnecessary. It is the anxious wish of the Spanish Government that a suitable opportunity may be afforded to it for the production of those titles and documents, that they may be compared and confronted with those which may be produced on the part of the United States, (for hitherto they have been merely referred to,) as neither the state of the discussion, nor what has been advanced by the United States, has permitted or required anything further.

I cannot pass over, without remark, your observations tending to prove a contradiction between Don Pedro Cevallos and what I have laid down. You state therein that I have said that the boundaries of Louisiana were most notorious and acknowledged by France; and that I finally conclude by admitting that those same boundaries have never been fixed or agreed on. That which has been said by Don Pedro Cevallos and by me, and which can admit of no doubt, is, that the western boundaries of Louisiana have always been notorious and acknowledged between Spain and France; from the ocean by a line drawn between the rivers Mermento and Calcasia, running by Arroyo Hondo, between the Adaes and Natchitoches, crossing the Rio Roxo, (Red River,) and ascending towards the north. It is the boundaries between French Louisiana and the Spanish possessions after that line has crossed Rio Roxo, (Red River,) which have never been fixed, and it is proper not to confound one thing with another.

At the same time it is proper to remark that this same divisional line between the possessions of Spain and France has not been fixed by any treaty between the two Powers, but has always been considered as such from the time that the French established themselves on the right bank of the Mississippi until they ceded and delivered that province (that is to say, the delta of Louisiana) to Spain; the said divisional line from the ocean to the point I have shown having at all times been notorious and acknowledged, both by the authorities and inhabitants of each of the territories, respectively. I can, therefore, discover nothing contradictory in what was advanced by Don Pedro Cevallos and myself in the note referred to by you, and only see in our assertions a truth of facts which it is impossible to deny. Indeed, I do not comprehend what solid reason there could be to combat this truth; and the only matter susceptible of discussion is that which refers to the points that it may be just to examine, fix, and establish for the continuation of the line northward after it has crossed the Rio Roxo (Red River.) All this may be easily adjusted if, as I have before said, the basis be admitted which I have proposed, and that is, to recur to the state of possession of France when she completed the cession and delivery of Louisiana to Spain. I remark, however, that what you have communicated is opposed to this, namely, that the United States will no longer entertain a discussion relating to the territories included in the State of Louisiana. If this were the only difficulty, I do not doubt, knowing as I do the desire of the King to do whatever might be ac-

ceptable to the United States as far it may be practicable, and comport with the dignity of his august station, that His Majesty will agree thereto; and although he will not assume the lofty and dictatorial tone which you attribute to the Spanish Government at the time of Charles V. and Philip II., if he had on this occasion adopted the same principle on which the resolution of your Government, according to your communication, has been formed, yet His Catholic Majesty is ready to hear all that can be advanced by the United States in support of their pretensions, and to relinquish any point or territory whatsoever which may lawfully belong to them, although it be comprehended and incorporated in the ancient dominions of his royal Crown.

I forbear to analyze the three principles laid down by you as being founded on the immutable basis of justice, and on the general practice of European nations which have formed settlements and acquired possessions in this hemisphere. It is sufficient to read them to be satisfied that they are wholly inapplicable to the case to which you refer; and that they are, besides, conceived with too vast a latitude to be exempt from absurdities and contradictions, not only of the general practice of nations, but of the most venerable rules of justice, and even of common sense. Fortunately, the question at issue is not in that state to render it necessary or possible for your Government to recur to those principles, because I flatter myself that the principal points on which the dispute turns are already sufficiently clear to admit of their being brought to an amicable conclusion and equitable arrangement.

Let us now pass to the subject of claims. It gives me great satisfaction to observe that we agree as to what regards claims for losses and injuries reciprocally caused by Spaniards and Americans, contrary to the law of nations and existing treaties. The convention of 1802, between the Plenipotentiaries of the United States at the Court of Spain, and His Catholic Majesty's Secretary of State, was specially formed for the settlement of these reciprocal indemnities; and, consequently, it not only from that moment established the certainty of losses and injuries caused by Americans to Spaniards, in violation of the law of nations and the existing treaties, but also exhibited and admitted the right of the said Spaniards to claim adequate indemnity. This point, therefore, will be attended with no difficulty in settling it on the basis of the above-mentioned convention, with the additions as proposed to you in my note of the 24th of January, and which you state there is no difficulty in admitting. But I have at the same time to regret that we have not been able to agree on the point relating to the spoiliations committed by French cruisers on the coast of Spain, and by French Consuls in Spanish ports. As it is notorious and unquestionable that these spoiliations were committed by the French under the authority of their Government, I can discover no reason why Spain should be made responsible for them when the nation exists by whom they were committed.

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Even the American citizens have admitted that their right was against France directly, and addressed themselves to her, by laying their claims before the competent tribunals of that nation. The United States also claimed of the French Government on the same subject. In fact, Frenchmen were the aggressors. By the French Government they were authorized. It was in French tribunals that the privateers committing the excesses complained of gave the usual bonds; they were French subjects, subject only to the laws of France, and amenable only to the Government and authorities of France. It was France alone which reaped the benefit of the produce of their captures; all which, combined with the arguments I have touched on in my note in relation to this matter, cannot fail to convince you, if they be impartially attended to, that it is France, and not Spain, which should be responsible to the United States for the spoliation in question; or, what amounts to the same thing, while France exists, there can be no right whatever to have recourse on Spain, and claim of her indemnity and compensation for those spoliation. If the responsibility for this indemnity and compensation has not been redeemed by France, in her conventions with the United States, as you assure me, my opinion continues unchanged, that the right of the United States, or that of their citizens, can only in justice be applied to France; and I am at present no farther authorized in this case than to offer the co-operation of Spain in promoting the favorable issue of the claims of the United States on the Government of France.

Before I conclude this note, I think it fit to impress on your mind that, the United States being at peace with France at the period the occurrences now spoken of took place, there could be no difficulty in the American citizens having recourse on the Government and tribunals of France; and they, in fact, had such recourse in all those cases in which they consider themselves well founded in resorting to it; and that, notwithstanding Spain was likewise at peace with the United States, she could not ascertain whether the American vessels brought into her ports by the privateers of France, her ally, had violated the law of nations, and thereby forfeited their right to the protection due to them by Spain, in conformity to the existing treaty, and the public law of nations. It was for her to believe that this point would be ascertained by the Consuls of France, and finally determined by the tribunals of cassation there. She was further to believe so by the consideration that their citizens enjoyed the benefit of a recourse to her tribunals, of which they availed themselves as often as was requisite. To this simple idea are the observations reduced, which I laid before you in my note of the 8th of January, and which you appear to consider as in contradiction with others stated in the same note—a contradiction which I do not conceive can be discovered in them.

It is my duty to repeat, from a thorough consideration, that His Catholic Majesty is earnestly

desirous to satisfy the United States, and amicably to settle and adjust all pending differences, and that it is no less certain that His Majesty extends his sincere wishes, in that respect, even so far as to be willing to make every sacrifice in favor of the United States, consistent with the indisputable rights of the monarchy, and the dignity of his august character. I have already offered you these assurances; I now renew them in the most positive manner. But I cannot, however, refrain from expressing to you my great regret on perceiving that the Government of the United States seem resolved not to agree to submit the pending differences to the judgment and impartial decision of friendly Powers, or admit the mediation of any of them, as appears by your communication to me. My regret is greatly increased, when I reflect and see that the two modes pointed out are the most simple, proper, and just, which could be resorted to to terminate a dispute in which each of the parties proceeds with good faith, and conceives it is in the right. It was one which was admitted by the United States themselves, when, in the late war, they accepted the mediation of Russia, for the purpose of settling and adjusting, under the auspices of that mediation, the points on which they had not been able to agree. Nor can I more easily comprehend why there should be any obstacle to admitting one of those two modes because the United States have no communications made to them, by the Governments of Europe, of the order and state of their negotiations, and their system of policy has no interest or relation with that pursued by those Powers; it being considered expedient, as you assure me, to avoid entering into the labyrinth of European politics. As the points in dispute between your Government and that of Spain are not entangled in this labyrinth, and as the Government of the United States is confident, as you state, that their rights are clear, and their arguments invincible, I cannot conceive what inconvenience can result from referring these rights and these arguments to an impartial third party, in whom the United States have the greatest confidence, and submitting the case to its judgment and decision; or from conferring on the points embraced by the present case, and settling and adjusting them under the mediation of such Power or Powers as, in the face of the world, are most entitled to the confidence of your Government. I was told by Mr. Monroe, in one of his early notes, that if this case were submitted to the judgment of an impartial tribunal, disposed to take it into due consideration, he was confident the decision would be in favor of the United States. I know not, for my part, what would be the result; but what I can assure you is, that, whatever might be the decision of the tribunal to which the two Governments had agreed to refer their differences, it would meet the approbation of His Catholic Majesty, and relieve him from the anxiety created by this business.

Why not, then, make choice of a tribunal, and submit to its decision? Is it possible there can-

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not be found in the whole universe a Government, or a number of individuals, worthy of confidence in such a case? I am satisfied that your Government neither does nor can think so; and that its love of peace and amity with all Powers, its firm adherence to the principles of equity and justice, and its humane sentiments, offer the best grounded hopes that the present difficulties will be overcome, and the wished for moment is at hand when all the differences pending will be finally settled to the entire satisfaction of both Governments.

Seeing, therefore, by your communications to me, that the opinions still maintained by the Government of the United States are derogatory to the indisputable rights of the Crown of Spain, and that you propose no basis capable of reconciling the contradictory views respectively taken by each Government of the subject, I find myself unprovided with suitable powers and instructions finally to agree on and stipulate in the present case. I am, therefore, under the necessity of despatching a courier to Madrid to inform my Sovereign of the actual state of this negotiation, and to request of him the necessary orders and instructions, by increasing my powers, as may be deemed requisite, in reference to existing circumstances.

In the meantime, I confidently hope that the Government of the United States will rely on the honor and good faith of the Spanish Government, and in the earnest desire of His Catholic Majesty to satisfy the United States, and strengthen the ties of the most perfect harmony and good understanding.

As the partial gazettes throughout the Union unfortunately endeavor to scatter the seeds of animosity in the minds of unguarded persons, or such as are uninformed on the points embraced by the differences pending; and as the Congress has requested information of the President on the present state of those differences, who has laid before the House of Representatives the official correspondence on these subjects, both here and at Madrid, it would be desirable that his Excellency would be pleased also to lay the present note before Congress, as it forms a part, and is the complement of that correspondence, and presents the most unquestionable view of the amicable dispositions of Spain, and of the determination of His Catholic Majesty to omit nothing to meet the just wishes and hopes of the United States. I therefore hope that the President will be pleased to direct this measure, and that you will contribute to its adoption.

In the meantime, it is my most ardent wish that you may suggest a just mode by which we may be enabled to approach the necessary basis for the settlement of all the differences pending, by removing the principal difficulties which have hitherto obstructed our progress, as I shall, notwithstanding the deficiency of my powers and instructions, with the greatest pleasure, take into due consideration, without waiting for new orders from my Sovereign. You must be aware, sir, that those I am already furnished with cannot

extend to the case presented by the proposals contained in your note of the 16th January, since Spain never imagined that the *Rio Colorado*, hitherto spoken of by the Minister of this Republic, could be any other than that of Natchitoches; and I did not even think you meant to speak of any other in your note, until I was more exactly informed by you; the river which you wished to designate being known by the name of San Marcos, or *de las Canas*. This circumstance, taken in connexion with the other respecting the cession of the Floridas without any equivalent or retribution whatever, produces an infinite difference in the view to be taken of the first proposals made on the part of your Government to that of His Catholic Majesty; and I am unable to stipulate such sacrifices, on points of such magnitude, until I have previously consulted my Court, and received orders and instructions adapted to the purpose. Hence I find myself under the necessity of despatching a messenger to Madrid with all possible expedition. But to prevent the loss of time, in the meanwhile, this need not prevent our continuing the negotiation, and employing every proper means to bring it to a conclusion, on principles of common justice and reciprocal convenience, to the satisfaction of both Governments. To attain this, I conceive it will not be difficult, provided we confine ourselves to the essential objects of the dispute, and honorably reject whatever has no important connexion with it, or cannot contribute to the end in view.

I flatter myself, sir, that both you and your Government will proceed under the influence of similar sentiments. Reposing in this hope, I renew to you the assurances of my distinguished esteem and respect. God preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, March 27, 1818.

SIR: In the President's Message transmitted to Congress on the 25th instant, on the state of the present war with the Seminole Indians, it is declared by his excellency that the greater number of those Indians inhabit within the limits of Florida, and that Spain was consequently bound to restrain them, and prevent their committing hostilities against the United States; but that it is painful to observe that she has failed to fulfil this obligation; that it is yet unknown whether the Spanish Government has attempted to fulfil it agreeably to the stipulation of its treaty with this Republic; that His Catholic Majesty not having kept up a sufficient force in Florida to restrain those Indians, the United States had a fair right to enter the territory of that Spanish province with an armed force in order to chastise them, which will be effected, showing due respect to the Spanish authorities where they may exist, and evacuating the province as soon as the object of the war and the entry into the Spanish territory shall be obtained.

It is my duty to state to you, for the informa-

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tion of the President, that the Governor of Florida uniformly observed the most scrupulous neutrality throughout all that province during the late war between the United States and Great Britain, and constantly employed every becoming and practicable means to avoid all manner of hostilities on the part of the Indians, alluded to by the President in his Message, against the people or citizens of the United States; in proof of which, I have the honor to enclose a letter received by me from the Governor of St. Augustine, with a correspondence also received from him in relation to this particular subject. I am yet uninformed that any complaint of the authorities or citizens of the United States had been made to that officer of the Seminole Indians, or that any demand had been made of him to restrain and compel them to make satisfaction to the United States for any injuries they may have committed. From the Governor's correspondence, a literal copy of which is enclosed, it is evident that he used the utmost attention in recommending them to observe peace and the most perfect harmony with the citizens of this Republic, in appeasing all their bickerings and jealousies, and in dissuading them from every hostile feeling towards the persons or property of the citizens of the United States. He would also at once have employed forcible means to effect this, in case any complaint had been made to him of those Indians, stating the excesses they may have committed, and the grounds there existed of obliging them to make reparation for the injuries sustained, and of punishing them for their outrages. As nothing of this kind took place, I cannot perceive how a failure in this case can be attributed to the Government of Spain.

As to what relates to His Catholic Majesty's not keeping up a more considerable force in Florida, you must be aware, sir, that Spain has reposed full confidence in the peace and good understanding subsisting with the United States, and that, relying thereon, her attention has been confined to keeping up such garrisons as were absolutely necessary to preserve good order and public tranquillity; of course, she never entertained the idea of putting that province on a war establishment. Its garrisons, being in the neighborhood of a friendly and respectable Power, were competent to the purposes they were intended for, and to keeping the Indians dependent on them within their duty, and to enforcing that peace and orderly conduct they were bound to observe, as well towards the territories and subjects of His Catholic Majesty as towards those of the United States.

It is therefore to be presumed that the information or advices communicated to the President are without foundation; and I therefore hope that his excellency, on correcting the truth of facts by an examination of the correspondence, (copy of which is herewith transmitted,) as well as by other suitable means, will be pleased to prevent any violation of the territory of Florida, or any other part of the dominions of Spain, by

the troops of the United States. If that fact should unfortunately be realized, it would be my duty to enter my solemn protest against it, in the name of the King, my master; but confidently relying on the rectitude and wisdom of your Government, I trust that its measures will conform to the strict principles of justice and that good faith in which His Catholic Majesty places full confidence. Spain has at all times strictly fulfilled her engagements stipulated by the treaty with the United States, and, while she prides herself on a religious observance of them, in every particular relating to the Indians inhabiting within the territories of the monarchy, she is also desirous of protecting those unfortunates, and of acquitting herself towards them of every duty dictated by humanity. She has never permitted them to be molested by the Spanish authorities, nor a single step to be taken tending to their extermination, the dispossessing them of their properties, or disturbing them in the free enjoyment of their customs and government. The philanthropic sentiments of the American Government and people are assuredly in unison with those of His Catholic Majesty on this point. I therefore hope that those Indians, on being punished for the violences or injuries they may have committed, will be viewed with that indulgence by the President which their ignorance and rusticity seem to claim for them.

I renew the assurances of my perfect respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Jose Coppinger, Governor of St. Augustine, to Don Luis De Onis.*

ST. AUGUSTINE, FLORIDA,

February 10, 1818.

MOST EXCELLENT SIR: I have most attentively examined the contents of your letter of the 17th of December last, in relation to the complaints of the Government of the United States against that of the province under my command, founded on the protection alleged to have been afforded to the English in their late war with that nation; also, on the hostilities committed by the Indians under the protection of our Government, and affirmed to be fomented by the Spaniards.

The occasion furnishes a theme for ample and well-founded discussion, were I to undertake to point out to you the motives of these complaints, and if I could contrast the conduct of the Government of this province, as to what regards the United States, with theirs in respect to the Spanish nation, on those different occasions on which they have hitherto and still do give proofs of their proceedings upon the subject of neutrality; but leaving this to your enlightened and judicious investigation, I now proceed to submit to you such information and documents as are in my reach, in compliance with your request.

In order to answer you categorically, I have had recourse to the archives of the Secretary's office for this Government, and have collected such documents as are essential, copies of which

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are herewith transmitted, marked No. 1 to 14. They will readily solve the two problems brought into discussion, and show that the system of this Government has been diametrically opposite to the proceedings attributed to it, which are wholly without solid or even plausible foundation.

In fact, what more convincing proof can be offered of the observance of the strictest neutrality than the total ignorance of any complaint ever being made here by the Government of the United States, their officers and citizens, of any infractions? The letters of Brigadier Don Sebastian Kindelan, then governor of this province, to the different officers under his command, recommending the observance of the strictest neutrality towards the belligerents, offer similar proofs of this spirit. The letter of John Brown, a citizen of the United States, written at that period, the claim made of the commander of the English squadron, and the copy of a letter addressed to George Woodbine, captain of infantry, and British agent with the Indian nations, at the time he came here, forming part of the documents now transmitted, are additional evidence of the protection afforded to American citizens, in conformity to the laws of nations and the sixth article of the treaty of amity, limits, and commerce, concluded between the King of Spain and the American nation on the 27th of October, 1795.

If your excellency attends for a moment to the charge of hostilities committed by Indians inhabiting this province on citizens of the United States in consequence, as is alleged, of the hostile feelings suggested and fomented by the Spaniards, it will be no difficult matter to repel it, and refute an insinuation so injurious to the Spanish character. Truth needs no circumlocution to prove it; in communicating, therefore, evidence on this point, it will suffice to lay before you my correspondence with Boleck, a Seminole chief, making part of the enclosed documents, for the purpose of enjoining on him a strict observance of peace, good order, and friendship with the people of the United States. This will demonstrate to them and to the world that the Government and inhabitants of this province, so far from being instigators of hostility and discord, have performed the office of friends and peace-makers, and that the political conduct of the superior officers in East Florida has been founded on the principles of reason, justice, and friendship. Influenced by the sentiments of honor and good faith which have ever characterized the Spanish nation, I was solely animated by them when I invited the chief Boleck to come and see me, which he did. I then recommended to him most earnestly to refuse any retreat or asylum within his territory to the fugitive slaves from the United States, and offered to act as a mediator in his differences, if he had any. To which he replied, that he had no other than those connected with his endeavors to preserve his cattle, which were daily stolen from him by the Americans, who, besides, were endeavoring to dislodge him from his territories.

I leave it to the discernment and decision of

politicians to pronounce whether, in the course of the events alluded to, the most unimpeachable neutrality and good faith have not been observed by the Government of this province. The proofs referred to in support of this are so clear and convincing that I refrain from trespassing further on you, satisfied as I am that your accurate judgment will give the proper direction to the affair in question.

God preserve you many years.

JOSE COPPINGER.

No. 1.

St. AUGUSTINE, *January 11, 1815.*

SIR: I have received yours of the 8th instant, informing me of the arrival of the King's schooner the Empezinada; also of the appearance off the bar of seven frigates, three brigs, and two schooners, supposed to be English. In reply to the first part of your letter, I have to request that you will afford the commander of the Empezinada all the facilities in your power for the repair of his vessel; and to the second, that, as His Majesty has recommended to me the observance of the strictest neutrality, you will firmly maintain it in a becoming manner, by not permitting any foreign troops to land within the Spanish territory, or affording any aid or assistance directly or indirectly, the said troops being at war with the United States. You will not fail to give me immediate advice of whatever may occur.

God preserve you many years.

SEBASTIAN KINDELAN.

To DON FERNANDO DE LA PUENTE.

A true copy:

TOMAS DE AGUILAR.

No. 2.

St. AUGUSTINE, FLORIDA,  
*January 21, 1815.*

SIR: I am happy to learn the amendment of your health, announced in yours of the 17th instant, and hope it is now perfectly re-established; but, in case it is not, you will take charge of the command provisionally, and of course open the correspondence I have directed to you, as well as any future communications, to give all due effect to their contents. I further inform you that, as circumstances have rendered it necessary to prohibit the export of provisions from the province, you will not permit any to be taken off, and on this ground, as well as that of necessity, you will, in the most civil manner, decline offering or affording any supplies to the English, of provisions, arms, warlike stores, or anything else to be hostilely employed against the United States, or any aid or assistance for their remaining in their present position, pointing out to them, in the most attentive and becoming way, the necessity we are under of observing the strictest neutrality, recommended to us by our Court on the most serious responsibility; and that, in consequence, and to avoid the compromise of this province, it would be desirable they should cease their visits and communications with the

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inhabitants. In case the commandant is in a state fit for duty, you will deliver him the original of this letter for his government.

God grant you many years.

SEBASTIAN KINDELAN.

To Don CRISTOBAL BRABO.

A true copy:

TOMAS DE AGUILAR.

No. 3.

St. AUGUSTINE, Jan. 21, 1815.

SIR: I approve of your conduct in endeavoring to prevent the approach of the English ships of war into your river, and you will inform them that on no account whatever are they to enter therein, or station themselves within hail. If discovered in these attempts, they will lose their claim to that name for which they have a reputation. I have also to direct you that, in case they wish to water their ships, you will decline it in an attentive and polite manner, and explain to them the difficulties which oppose their receiving supplies; in one word, you will, in your communication with them, avoid whatever may compromise the neutrality which is so strictly enjoined on us. God preserve you many years.

SEBASTIAN KINDELAN.

To Don PEDRO MIRANDA,

Harbor Master at Amelia Island.

A true copy:

TOMAS DE AGUILAR.

No. 4.

St. AUGUSTINE, Feb. 4, 1815.

MOST EXCELLENT SIR: A complaint has been laid before me by Robert Harding, a citizen of the United States of America, stating the capture, by His Britannic Majesty's forces under your command, of his boat, called the Maria Teresa, then at anchor within the Spanish waters of Bell's river, at the spot known by the name of Roun's Bluff, and claiming the protection of the Spanish Government, to which he conceives himself entitled, both by the law of nations and the sixth article of the treaty of amity, limits, and navigation, concluded between His Catholic Majesty the King of Spain and the United States of America, at San Lorenzo el Real, on the 27th of October, 1795, in order that a due inquiry may be made of the facts, to obtain the restoration of said boat. You will readily admit the propriety there is in my attending to this claim, and the importance attached to the maintenance of national jurisdiction and the faithful observance of treaties. This affair, being important, cannot be viewed with indifference, as silence would give room for conjectures unfavorable to the honor of the Spanish character, and to the good faith with which it observes treaties of compacts. The English nation, being in strict alliance and amity with Spain, cannot fail to disapprove such proceedings, which have a tendency to affect their friendship and that favor and protection which are justly due to so close a union. I trust, therefore, that your excellency, penetrated with the sentiments

inseparable from these unshaken principles, will have the goodness to take this claim into consideration; and, relying on the mutual good understanding subsisting between Spain and England, I venture to request you will be pleased to give orders for the restoration of the above-mentioned vessel, as I have a satisfaction in reflecting that your well-known zeal and reputation will be a sure pledge of your respect for the honor of the Spanish nation, which reposes full confidence in the fidelity of its friends and allies.

I request you to receive the assurances of the high consideration with which I am, sir, your most obedient servant,

SEBASTIAN KINDELAN.

Sir GEORGE COCKBURN,

Rear Admiral of H. B. M. squadron.

A true copy: TOMAS DE AGUILAR.

No. 5.

HEADQUARTERS, CUMBERLAND ISLAND,

February 13, 1815.

MOST EXCELLENT SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 4th instant, soliciting, on the grounds therein stated, the restoration of the Maria Teresa, a vessel belonging to Robert Harding, a citizen of the United States, captured by the force under my command. This affair took place before my arrival; and His Majesty's officers who made the capture affirm that the vessel was navigating the waters of the St. Mary's river, in violation of the blockade, at the moment they gave chase to her. They, consequently, thought themselves justified in capturing her; and it is, therefore, necessary she should be sent to some port where an admiralty court is established for the decision of such cases. In this view of the case, the impartial justice administered in the courts of His Britannic Majesty, as is well known to you, forbids any apprehension that this incident can interrupt the friendship and good understanding happily subsisting between the two Governments. It may, however, not be superfluous to call your attention to the inconsistency of such a claim on behalf of a citizen of the United States by the Spanish nation, and particularly through the medium of your excellency, when we reflect that the Americans have, in a hostile manner, possessed themselves of a considerable portion of the territory under your immediate command; and, further, that a number of them, styled patriots, were, at the very moment of the occurrence complained of, in possession of the territory surrounding the spot you allude to, (Rose's Bluff.) And although the Government of the United States, after having ordered Fernandina and part of East Florida to be occupied by their troops for a year, has thought fit to disclaim any authority for the invasion of the Spanish territory, you cannot be ignorant that the officer who co-operated with the gunboats in the hostile movements of the said Americans, styled patriots, still retained the command of that flotilla, which it is not pre-

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sumable would have been permitted had he not acted conformably to his orders. A late occurrence at Pensacola, in West Florida, followed by the destruction of Fort Barancas, is an additional proof how little the Americans are disposed to respect the neutrality of Spain, except in cases like the present, in which they are likely to gain something. I beg your excellency, however, to be persuaded that, although I consider the foregoing remarks as indispensable, since they prove the slender foundation *these people* have to claim the protection of a neutrality which they have so recently and so extensively violated, yet it is my anxious wish to respect as sacred and inviolable not only the neutrality of the province under your government, but also all the rights you may claim of me in behalf of the Spanish nation, when they do not interfere with my duty to my own.

I beg leave to assure your excellency of the high consideration and respect with which I have the honor to be, your excellency's faithful and obedient servant,

GEORGE COCKBURN,  
*Rear Admiral.*

His Ex<sup>cy</sup> Don SEBASTIAN KINDELAN, &c.  
A true copy: T. DE AGUILAR.

No. 6.

PROTEST.

FERNANDINA, *Amelia Island, E. F.*

This third day of April, one thousand eight hundred and fifteen, appeared before Don Jose Pacot, captain of the regiment of Cuba infantry, military and civil commandant and deputy of the royal treasury (*hacienda*) at said place, John Brown, late captain of the American ship *Sabine*, captured on the 30th of January by the British forces, who declared his wish to enter his protest against said capture, noted at this command, on the 23d of the same month, for the like cause, and in presence of the witnesses Don Jose Maria Ugarte, an inhabitant of this province, and Juan de Rosello, corporal of infantry, appointed to act in the want of a notary public, having first declared his acceptance and taken oath in due form, through the medium of Don Jorge Clark, appointed interpreter, on the Holy Bible, according to the Protestant faith, of which he is a member, to speak the truth, and nothing but the truth, deposes: That the said ship *Sabine*, formerly the Countess of Harcourt, was captured in the late war by the United States privateer schooner *Sabine*, and carried into St. Marys, in Georgia, where she was tried before the Court of Admiralty for the State of Georgia, and condemned as good prize, put up at public sale the 5th October, 1814, and bought by Messrs. Diego Williams, Juan Gooding, and Juan Donnell, merchants of Baltimore, as duly appears by the documents to be referred to. That the said purchasers of the prize, being apprehensive that she would be attacked by the British force, as actually happened, took measures to shelter, and

did shelter, her within the Spanish territory, by making her fast in a creek connected with the Spanish river, Santa Maria la Chica, (Little St. Marys) in the firm belief that, under the protection of a neutral Power in amity both with Great Britain and the United States, she was not exposed to attack or injury, from the respect it was thought would be observed to her while within the Spanish limits. She was carried four miles up said creek, and made fast to the trees. In this situation she was boarded by a British force, detached by Admiral George Cockburn, who was in possession of the country towards St. Marys, with his headquarters at Cumberland Island. They carried off by force part of the property on board said ship, and the next day took full possession of her, and carried her off from the Spanish territory to Cumberland Island, where she had a cargo of negroes put on board of her, and was sent, as deponent was informed, to a British port, supposed to be Bermuda, for adjudication as prize of war; and as neither the deponent nor any one on board committed any act whatever that could serve as a motive for the proceedings of the captors in violation of the justice of Spain, and her dignity and absolute neutrality towards both nations, nor made the smallest resistance to the seizure, as is public and notorious, he therefore protests, once, twice, thrice, and as often as may be necessary, both on behalf of himself and of all those interested in the said ship, against the proceedings of the said Admiral Cockburn, as well as against all others of whom he may and ought of right to claim for the damages and losses sustained by this illegal seizure, and also against the violation of the neutrality of the province of East Florida, to the injury of the parties interested in the said prize before the seizure, declaring, as he now does, that he refers to the note of this protest, made on the 23d of January, which was made with all possible expedition at this command. All which he declares and confirms upon the oath he has taken; and having required this original document to take his recourse therewith, I have granted him complete and ample testimony of the same, and signed it, together with the said commander and interpreter, to which we witnesses present bear testimony.

GIL JOSE PACOT,  
JOHN BROWN,  
JORGE CLARK,  
JOSE MARIA UGARTE,  
JUAN DE ROSELLO.

MEMORIAL.

*May it please your Excellency:*

Mr. John Brown, late captain of the American ship *Sabine*, formerly the Countess of Harcourt, with all due respect submits: That the said vessel being within the shelter and refuge of a creek of the river called Santa Maria la Chica, (Little St. Marys,) within the limits of the dominions of Spain, was attacked and seized on by the forces of His Britannic Majesty, under the command

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of Admiral George Cockburn, in the mode and manner duly set forth in the annexed protest, made and entered before the military and civil commander of the town of Fernandina, and attested by proper witnesses, in the want of a public notary. The said river being within the limits of the dominions of His Catholic Majesty, and the vessel seized on when that Power was in a state of peace and amity both with His Britannic Majesty and the United States of America, the offence committed by this outrageous act is evident, as well as the violation of the neutral territory, to which a sacred respect was due, and of those universal laws which are maintained and acknowledged by all independent States and Princes. It being the duty of this memorialist to claim of your excellency a demand of the restoration of said vessel, in virtue of the protection afforded to him by the stipulation contained in the sixth article of the treaty of amity, limits, and navigation, concluded between His Majesty the King of Spain and the United States of America, at San Lorenzo el Real, October 27, 1795, expressly applicable to cases of this nature. He, therefore, entreats your excellency to be pleased to cause the necessary orders to be issued, and therewith to employ all due efforts and energy, claiming the recovery and restoration of the said vessel, and addressing the same to the Lords Commissioners of the Admiralty of Great Britain, the judges of the several courts of admiralty or vice-admiralty, and all civil and military officers and functionaries authorized to take cognizance of such matters, to the end that, on the exhibition of such proofs as may be produced and appear satisfactory and competent to substantiate the contents of the afore-mentioned protest, the said ship may be restored, together with everything belonging to her at the time of her capture. All which is hoped from your justice.

JOHN BROWN.

ST. AUGUSTINE, *Fa.*, April 6, 1815.

DECREE.—St. Augustine, 6th April, 1815. Referred to the Auditor of the War Department.

KINDELAN.

NOTIFICATION.—Before me, Juan de Entralgo, Government notary *pro tem.* At St. Augustine, on the same day, and in the same month and year, I attest that I notified the foregoing decree to Captain John Brown.

ENTRALGO.

## OPINION.

*May it please your Excellency :*

This petition is the third that has been presented in this superior tribunal, of like nature to that submitted by Mr. John Brown. In the two former cases, a letter was addressed to the English Admiral then at Cumberland Island, in which it was requested, with all the politeness and respect due to the existing alliance, to be pleased to cause to be restored to their respective owners the vessels claimed by each one, on the ground of their having been captured in our waters, it

being essentially important to extend to them when so situated, the protection of our Government, in conformity to the sixth article of the treaty of amity, limits, and navigation, concluded between our Court and the United States on the 27th of October, 1795, which runs thus: [Here follow the words of the article.] But having been informed extrajudicially, not only that the vessels so captured within the Spanish waters have not been restored, but that the interposition of our Government has been received with indifference, it is expedient that the claim should be made with all the energy required by the case, and the honor of the nation asserted, by causing due respect to be paid to the inviolable rights of neutrality. By a reference to the foregoing article, it is abundantly proved that the citizens of the United States are entitled to the protection of our Government while within the Spanish territory, and, consequently, to resort to it in claiming for them the restitution of such property as may have been taken from them within the limits of our jurisdiction; it is therefore evident and incontrovertible that, as the said treaty remains in full force, it is indispensable to maintain and observe its whole tenor and stipulations.

But setting aside so decisive an authority in support of the protection due to a friendly Power so circumstanced, it is sufficient to view the case as connected with the principles of the laws of nations—a subject so thoroughly discussed by all politicians, that no one possessing any ideas upon international law dissents from the general opinion of all the civilians as to the degree of aid to be afforded to those who take shelter in the ports or within the limits of a friendly Power; and, according to the opinion of a native of the Kingdom, any vessel taking shelter under the cannon of a neutral port ought to be defended by it, by keeping the pursuers at the distance of cannon shot. And would it not be a stain on the character of our nation to pretend to misunderstand the fact of a friendly vessel being taken out of the Spanish waters, although only made fast to the trees of our territory, by a force belonging to a Power which, although our ally, was, however, then at war with the other? Such an indifference would give rise to all manner of conjectures, which every one would interpret as they pleased, but all tending to throw discredit on our national character. Doubts, at least, would be entertained of our good faith in observing our compacts, which delicate point is the distinguishing principle that has ever characterized the Spanish name; and it is well known how important it is for a nation faithfully to observe her treaties. The sixth article, above referred to, is so clear and explicit as to leave no room for the slightest misinterpretation; and if it were now to give it a sense different from that expressed in it, the mischievous consequences would be easily seen.

The general opinion of all political writers is, that, by a violation of a single article of a treaty, it is doubtful whether the whole ought not to be considered as violated. This point has been sufficiently discussed by all the civilians. It can-



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not be doubted that, strictly considered, the failure in the last article of a treaty invalidates the whole. In fact, what dependence can be placed on the word of a nation which does not faithfully perform its promises? What it stipulated cannot be undone or annulled, notwithstanding there may be an innocent cause for it. The importance of a faithful observance of treaties may be inferred (he adds) from their being so highly interesting for the public welfare, the purpose for which they were formed; for this reason they are inviolable and sacred, and the Prince or nation which would seek to violate them would justly be considered as the enemy of the general weal and the rights of nations. All nations would be under the necessity of openly declaring themselves against the violation of the public faith, as disturbers of society." If our Government did not claim with firmness the property taken from the United States within the limits of Spain, who can doubt that such an indifference would be sufficient to authorize the conclusion that the treaty concluded between the two nations on the 27th of October, 1795, was thereby violated? Even the English, who have made prize of American vessels within the Spanish dominions, would disapprove our conduct, and consider themselves released from the present ties of amity in the expectation that, under similar circumstances, they would be deprived of that favor and protection to which they are entitled in consequence of our close alliance. I am therefore of opinion that a formal application, in polite terms, and embracing all the case, be addressed to the members of the admiralty court at Bermuda, or any other competent tribunal in Great Britain, claiming for the said John Brown, and all others interested with him in the case, all due justice; and hoping that the tribunal taking cognizance of it will be pleased to apply to this present application, that it, together with the result, may be laid before our court.

JUAN DE A. SANTECHIES.

ST. AUGUSTINE, April 11, 1815.

DECREE.—St. Augustine, 11th April, 1815.  
Opinion of the Auditor at War in the foregoing dictamen.

KINDELAN.

Before me, Juan de Entralgo, notary *pro tem.* of the Government.

NOTA.—I certify that on the same day the application above referred to was made out and delivered to the party interested.

ENTRALGO.

I certify that the foregoing are conformable to the originals deposited in the archives under my charge, to which I refer; and that by order of Don Jose Coppinger, colonel of the royal marines, civil and military governor of this fortified place and province, for His Majesty, the present documents have been made out, which I sign on eight sheets of common paper, not having used stamped paper.

JUAN DE ENTRALGO,  
*Secretary of the Government.*

ST. AUGUSTINE, FLORIDA, Feb. 4, 1818.

No. 7.

ST. AUGUSTINE, December 30, 1814.

SIR: At the time you stated to me verbally the motives of your coming to this place, I had the honor to represent to you, in like manner, the orders I had received from my Government to observe the strictest neutrality; that I could not, therefore, permit any communication with the English vessels which might appear off the bar; that I would give you every facility for a passage to Providence; that you would be pleased to discharge the escort of the people of color, which, under an erroneous idea of this province being invaded, you had obtained from the Seminoles as a safeguard on your journey; all which I repeat to you officially for your information and government; and I now add that, by the treaty of peace of 1783, both the Floridas were ceded to Spain by Great Britain, with the same rights therein as possessed by the latter; and that by the Treaty of St. Ildefonso with the United States of America in 1796, the northern boundaries of those provinces were defined, namely, by a line commencing at the east bank of the Mississippi, at the thirty-first degree of latitude, and running thence to the river Chatahoochee, and from the junction of that river and the Flint, by a right line, to the head of the St. Mary's, in the State of Georgia; therefore, all the Indians inhabiting the country to the south of said line are under the dominion and protection of the Spanish nation; and such of them as inhabit eastward of the river Appalachee are included within the limits of the eastern province, under my government; in consequence of which, I have to inform you that any disembarkation of troops within those limits, or expedition directed towards this province for the purpose of attacking the United States, will be considered as a rupture on the part of Great Britain; and that in such case I shall conduct myself as becomes my duty.

I have the honor to assure you of my respect, and to request you will have the goodness to inform me in writing of your intentions.

God preserve you may years.

SEBASTIAN KINDELAN.

To Capt. GEORGE WOODBINE.

A true copy: TOMAS DE AGUILAR.

No. 8.

Captain Woodbine to Governor Kindelan.

ST. AUGUSTINE, Dec. 30, 1814.

SIR: I have the honor to acknowledge the receipt of your two notes of this date. In reply to the former, permit me to assure you that I have never used any endeavors to induce the colored people (*los morenos*) of the province to desert; on the contrary, my instructions, since I have been in the Indian territory, have been to give every aid (as far as requisite) to the cause of our good and faithful ally, the Spanish nation; I am only authorized, in case any deserters should come in from the United States of America, to protect and recruit them for the service of His Britannic

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Majesty, agreeably to the proclamation of Vice Admiral Sir Alexander Cochrane; copy of which I enclose for your information. With respect to the few Indian and colored people (*morenos*) who attended me as an escort, as their appearance seems to have produced some sensation among the inhabitants, from an uneasiness about their slaves, I have given them orders to withdraw immediately to a greater distance from their neighborhood, and, if possible, I will leave this place in the evening. I should not have brought this small escort with me if I had not been informed by the Seminole chief Bowlegs that he had certain intelligence that a party of mounted banditti were committing hostilities against the Spanish authorities in this neighborhood. I am greatly obliged by the honor you do me by acquainting me with the boundaries of the territory which Spain considers as hers, which I shall communicate to my commanding officer.

I beg you to accept my sincere acknowledgments for your politeness, and that you would believe me to be your most devoted humble servant,

GEORGE WOODBINE.

*Captain Royal Marines, &c.*

His Ex<sup>cy</sup> Don S. KINDELAN, &c.

No. 9.

*Letter of Boleck (Bowlegs) to the Governor of Florida.*

MAY 7.

Be pleased to inform me if it is your wish I should go and see you, and be so good as to write to me. I cannot leave this now, as I do not know but I shall soon have the enemy upon me; I therefore cannot go at present; please to inform me if it is for His Majesty's business or not. I also wish you would advise me what I am to do with these Americans who come and steal my property. I wish you to send me a letter from your own hand.

BOLECK, *Chief of the nation.*

No. 10.

*The Governor of East Florida to the Indian Chief Boleck.*

ST. AUGUSTINE, FLORIDA, May 31, 1816.

*Friend and brother Boleck, Chief of the Seminole Nation:* The wish I have constantly had since my entrance into this Government to become known to you, in consequence of the satisfactory information given me by my predecessor, Don Juan Jose de Estrado, of the friendship and good understanding he has experienced in his intercourse with the Seminole nation, of which you are the chief, induced me to express to you by one of your warriors the pleasure I would have in receiving a visit from you whenever circumstances may permit you. I now repeat the same to you in writing, in consequence of the desire you manifest in your letter of the 7th instant, which was delivered to me by one of your people, to which you add a request that I would give you my advice as to the measures you should take relative to the continual robbery of your cattle;

to which I reply: that you may prevent it by resolutely driving off the persons who plunder you. Whereupon, I assure you of my good will and sincere desire to serve you.

JOSE COPPINGER.

A true copy: TOMAS DE AGUILAR.

No. 11.

*Letter of the Chief Boleck.*

SUWANEE, September 10, 1816.

DEAR FRIEND: I received your letter dated in May, and I am much gratified by the favorable opinion you are pleased to entertain of me. I did not expect to see the English here, but on their arrival they gave us good advice, which was to molest no one, and when they were gone to look on the Spaniards as our friends, since they and the Spaniards were as one. When we were at war with the Americans, all the Indians did us injury; I therefore remain quiet till I see what they will do. You are still calling for me, but it is not in my power to go; every day there are talks in the nation, and I cannot leave them. You will greatly oblige me by seeing to the payment of old July, as that is a just debt. I often write you, but I never receive an answer.

No. 12.

*The Governor of East Florida to the Chief Boleck.*

ST. AUGUSTINE, FLORIDA, Sept. 26, 1816.

*Friend and brother Boleck, Chief of the Seminole nation:* In consequence of your recommendation, and of the justice of the claim of your negro slave July, for the payment of the sum due him by Don Francisco Pellicer, I ordered it to be made, and it has accordingly been done, as I have been assured. This is very agreeable to me, as it has procured me the satisfaction of proving the friendship I have for you, which would never allow me to leave unanswered the letters which you say you have written me, if I had received them. My wish that we should see each other arises solely from the pleasure I should have in knowing you; and if your sentiments are the same, when your duties permit, I shall take that opportunity of giving you my opinion as to the runaway negroes who have taken refuge in your territory—an affair which cannot fail to produce disagreeable consequences with the American nation, as I have seen that they lately destroyed the establishment at Appalachicola, as I have been informed by several of your warriors, and I am sorry to observe that some of them have fallen there. It gives me pleasure to send you some paper, and to assure you of my sincere friendship and good wishes.

JOSE COPPINGER.

To our good friend and brother BOLECK,  
*Chief of the Seminole nation.*

A true copy: TOMAS DE AGUILAR.

No. 13.

NOVEMBER 18, 1816.

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a

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person to write an answer is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you, and I hope you will, when occasion offers, advise me of such things as may be of service to myself and my people. My warriors and others who go to St. Augustine return with false reports tending to harass and disturb my people, and prevent them attending to their usual avocations. At one time, the Americans, supported by a force of three thousand men, and such of our brethren as they have compelled to join them, are running lines far within our territory; at another, they are collecting a large force at Fort Mitchell, in the forks of the Flint and Chatahoochee rivers, to fall on the towns that may not join them. Now, sir, we know of no reason they can have for attacking an inoffensive and unoffending people, whose wish it is to inhabit their woods, without disturbing or being disturbed by any one. We have none of their slaves; we have taken none of their property since they made peace with our good father, King George; we have followed the orders of the officer of our father, who was among us, Colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our lands, stealing our cattle, and murdering or carrying off our people. We were told by the same officer that, as allies of our father, we were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before the war; but, so far from complying with the ninth article of that treaty, they are making daily encroachments, and forging treaties (which they pretend are concluded with our people) for cessions and grants of land which never were in existence, and the signatures to which are unknown to the chiefs of the Creek nation, who alone have a right to assign or transfer the common property. The want of a proper person among our people to acquaint us with these transactions is the cause of our long silence on them, and leads the world, as well as our friends, to think we are in league with the Americans.

The principal chiefs of the nation assembled lately at my town of Sawhahna, and resolved to inform the Minister of King George at Washington of our grievances, and of the conduct and usurpation of the Americans, which was accordingly done, and copies sent to England. Until we have one or more persons among our people to watch over our rights and interest, we shall continue to be exposed to the same conduct on the part of the Americans, whose system appears to be the destruction of our peace and tranquillity, and expelling us from our native land.

You desired that I would chase off those who steal my cattle, &c. Some of my people have lately driven away several Americans who were endeavoring to settle at Lachua, and I do not doubt they will represent that as an act of hostility, although you well know that Lachua is in the heart of my territory, and was, until the Amer-

icans killed my brother, our chief town. I return you my thanks for your letter,

And am, with great respect, your most obedient, humble servant,

Mark of + BOLECK,  
*Chief of Seminole nation at Sawhahna.*  
His Exc'y Don JOSE COPPINGER,  
*Governor of St. Augustine.*

No. 14.

ST. AUGUSTINE, FLORIDA,  
December 20, 1816.

FRIEND and BROTHER BOLECK:

Your letter of the 18th November was delivered to me yesterday by one of your servants, in which you inform me of the receipt of mine of the 26th September last, and other circumstances which give you and your warriors uneasiness. I see with pain that the whole comes from the information of persons in whom you ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing you and your people from their daily labors. In consequence of this, and of what you tell me of your desire to keep up the best understanding and correspondence with me, and of your hope that the opportunities will not be wanting, let me give you such counsel as may be useful to you, your people, and warriors. I will do so from the sentiments of sincere friendship I bear towards you—fearful, however, that the sentiments of others who come into the territory under the appearance of friendship, but with bad intentions, may influence your minds, and obtain your confidence, by their flattering representations. It is ascertained here that two persons have lately presented themselves as commissioners of the English nation, who have carried off several runaway negroes, belonging to subjects of the King my master and your friend; among whom was one of Don Francisco Pellicer's, and another of Bunch's—both inhabitants of this province. This did not seem credible to me, as I could not suppose that so good a friend to our nation as you are could consent to such proceedings. But, in case they have really happened, you will be sensible of their great impropriety, and of the just grounds of complaint on the part of the persons so injured, who are desirous, as well as myself, of assuring you of the sincere good will and friendship we have for the Seminole tribe of Indians, of which you are the chief.

I am, with great respect, your most affectionate and faithful servant,

JOSE COPPINGER.  
Friend and Brother BOLECK,  
*Chief of the Seminole tribe of Indians.*

Don Luis de Onis to the Secretary of State.  
WASHINGTON, May 7, 1818.

SIR: I have received official advice, through different channels, that the expedition of French adventurers which left Philadelphia towards the end of last year, with the apparent intention of

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going to Tombigbee, but in reality to Galveston, is now receiving, at the former place, a considerable number of recruits, and large supplies of military stores from the ports of New Orleans, Charleston, Savannah, and others within this Republic; from whence they proceed in small parties to Galveston, and thus elude the vigilance of the Government.

From the period at which (namely, on the 6th of September last) I announced to you the preparations for this expedition, referring for its unquestionable certainty to the plan communicated to this Government by the Minister of France, which offered the most indubitable proof that Joseph Bonaparte was at the head of it, with the rash project of being crowned King of Mexico, I have relied on your assurances to the same Ambassador, and which were forthwith communicated by him to me, that the most effectual measures had been taken by the Government to prevent its execution. But, perceiving that this expedition daily takes a greater consistence, and that the recruiting and supplies clandestinely sent from this Republic are not put a stop to, I can no longer refrain from again calling your attention, and, through you, that of the President, to the enormous abuse of the hospitality offered by this Republic, on the part of Joseph Bonaparte and his adherents, with a view to disturb the tranquillity of Europe, and especially that of the possessions of the King, my master.

I would have considered myself dispensed from the necessity of again pressing this subject on your attention, if it had appeared possible for me to restrain these armaments by the employment of judicial means; but, unfortunately, the act of Congress of the 20th April last for preserving neutrality with foreign nations, and others already in force, although highly judicious, are easily eluded; and although these practices are public and notorious throughout the whole Union, His Majesty's Consuls advise me that, through a deficiency of evidence, they cannot be retained by a regular application of the law.

Convinced, however, as I am, that nothing is more remote from the intention of the President than to tolerate hostile expeditions within the territories of the Republic, directed against Powers with which it is in a state of profound peace, I cannot for a moment doubt that his excellency will take into his most serious consideration what is due to the demand which I now make in the name of my Sovereign, that Joseph Bonaparte, the Generals Lallemand, and other Frenchmen now residing in this country, be compelled to keep themselves within the bounds prescribed by the hospitality and generosity with which they have been received, and prevented from continuing to organize expeditions for the purpose of invading the territory of His Catholic Majesty, and disturbing the peace enjoyed by his subjects.

I therefore hope that you will be pleased, sir, to inform me of the measures which may be taken on this subject, in order that, in communicating them to my Sovereign, His Majesty may see in

them a confirmation of the amicable sentiments of this Republic towards his monarchy.

I renew to you the assurances of my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State,*

BRISTOL, June 9, 1818.

SIR: At my passage through Baltimore, on my way to Philadelphia, it was represented to me by his Catholic Majesty's Consul for the State of Maryland that there were then in that port four pirates or privateers, if you please so to call them, namely, the "Independencia del Sud," Captain Grennolds; the "Pueyrredon," *alias* "Mangore," Captain Barnes; the "Republicano," Captain Chase; and the schooner "Alerta," Captain Chaytor. These pirates, denominated privateers or vessels of war of the pretended Government of Buenos Ayres, have entered the port of Baltimore for the purpose of dividing the spoil resulting from their depredations on Spanish commerce, and of refitting and arming to renew these excesses on the high seas. It is a matter of universal notoriety at Baltimore that three of the above-named vessels were fitted out there, and the fourth is a schooner captured by them from Spanish subjects. It is no less so that their commanders and the greater part of the crews are American citizens, and that there is scarcely a single individual belonging to Buenos Ayres to be found among them.

Whoever has read the so-called constitution of the provisional laws existing at Buenos Ayres, (for there is nothing there but what is provisional,) must know that no vessel of the rebels can sail under their flag unless the captain and one-half of the crew be natives of that country; and that no foreigner can be naturalized there till after five years' residence. I submit to your judgment, sir, whether on such grounds the vessels in question can be admitted to be Buenos Ayrean privateers, or whether the American captains and crews that man them, commissioned or not by that rebel Government, can be considered as citizens of that country; and whether, agreeably to the laws of nations and the existing treaty between His Majesty and this Republic, they can be viewed in any other light than as pirates; and if it be possible for you to conceal from your discernment that the captains and crews of these vessels have violated the laws of this Union in perpetrating these atrocities to the dishonor of the American name. I repeat that I submit it to your consideration to determine whether the prizes made by vessels under these circumstances ought not to be restored to their lawful owners, or that these persons ought to be indemnified by the United States, seeing that they have tolerated such armaments in violation of their laws, of the laws of nations, and of the existing treaty between Spain and this Republic.

I am aware, sir, that you will tell me that the courts are open to the recognizance of claims of this nature, and ready to apply the law to such

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cases as occur and are supported by suitable testimony; but I am under the necessity of declaring to you that it is in vain to seek such testimony, however clear it may be to everybody. I have remonstrated in the most pointed manner with His Majesty's Consul on his attention to points of so much importance; but he has proved to me that a great portion of the commercial people of Baltimore being interested in the cases which produce my present reclamations, no one is willing to come forward and offer testimony against what is termed the general interest; and thus the wise measures of Government are eluded, justice is paralyzed, and the suits procrastinated and deferred from court to court, with a view to deprive His Majesty's subjects of that justice which they have an undoubted right to seek in the tribunals on all their claims.

Presuming that all I have stated is well known to you and to the President, I cannot but persuade myself that it is highly disapproved of; and I am entirely willing to believe that, if these abuses are not remedied, it is owing to a want of due attention to the execution of the orders of the Government; but my duty compels me to call the attention of the President to this important point, and to represent to him, through the medium of your department, that (as far as I have been able to ascertain) the vessels in question, in addition to their object in coming hither, for the purpose of conveying to the parties interested at Baltimore the proceeds of their spoiliations on the Spanish commerce, and, among others, that of the Philippine Company's ship Triton, to the amount of a million and a half of dollars, captured by the pirate "Independencia del Sud," and carried to Buenos Ayres to be sold there, have a project in fitting out anew, and of attacking some possession of the King, my master, on this continent, to which they may more easily send their prizes; that these same privateers have brought in two Spanish prizes, which are at this moment in the port of Baltimore, one of them a vessel belonging to the royal navy. I therefore demand, in the name of the King, my master, the restoration of those prizes, as having been made by American citizens and vessels fitted out in this country, in violation of the existing treaty between the two Powers; and that the sailing of the said privateers be stopped, and they compelled to give security for the result of an expedition, of which, without knowing positively that they intend to execute it, I have the strongest ground for presuming they mean to do. I therefore hope that this subject will receive all the attention which I claim, and that you will be persuaded that, in taking the liberty to trouble you with it, it is because I have no other recourse, as I have in all other cities of the Union, where the officers of the Government afford the requisite attention to the reclamations of His Majesty's consuls, and the citizens are disposed to offer the necessary testimony in support of justice and the maintenance of the laws.

I seize this occasion to renew, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, June 17, 1818.

SIR: It is now some time since information has been circulated through the medium of the newspapers, and through private channels, of different incursions and acts of hostility committed within the territory of the Crown of Spain by divisions of the army under the command of General Jackson, destined, as it appeared, to pursue and chastise the Seminole Indians; but I believed until now that this information, although constantly repeated and augmented, doubtless proceeded from vague and unfounded rumors, as I could not persuade myself that such acts of violence and hostility could be committed by the United States against a friendly Power, and in the midst of the most profound peace. How was it possible to believe that, at the very moment of a negotiation for settling and terminating amicably all the pending differences between the two nations, and while Spain was exhibiting the most eminent and generous proofs of a good understanding, and the most faithful observance of all the duties of good neighborhood, the troops of the United States should invade the Spanish provinces, insult the commanders and officers of their garrisons, and forcibly seize on the military posts and places in those provinces? Notwithstanding this, the official advices I have just received from the Governor of West Florida, confirm what I had conceived to be impossible.

General Jackson and his officers have made demands on the Governor of that Spanish province in the most unbecoming and insulting tone; they have in different places violated the Spanish territory and its waters; they have committed enormous vexations, unexampled in history. With considerable force they fell upon the fort of St. Mark, and compelled the Spanish garrison to surrender prisoners of war; they took possession of that fortress, with all the artillery, warlike stores, and effects, without drawing up an inventory of the same, and have extended their military possession over the bay of St. Mark and the adjacent country. In speaking of the conduct of the American General and his officers, I confine myself to what relates to the act of hostility and violence committed within the territory of the Crown of Spain, to the violation of peace, and the forcible occupation of the aforesaid country and fort.

Under the pretext of making war against the Indians on complaints or motives which have neither been communicated to the Governor of those provinces, nor to the Captain General of the island of Cuba, who is also Governor of them, nor to any other Spanish officer or public functionary, the dominions of East Florida have likewise been invaded, and the Spanish territory entered as if it was an enemy's country; in fine, General Jackson has omitted nothing that characterizes a haughty conqueror but the circumstance of adding to these monstrous acts of hostility the contradictory expressions of peace and friendship with Spain.

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I therefore find myself under the necessity of protesting strongly and solemnly, as I now do, in the name of the King, my master, against the invasion of the Floridas, and against the taking possession of the fort and bay of St. Mark by the troops of this Republic; and I request you, sir, to lay before the President this my protest, in full confidence that his excellency will cause things in both the Floridas to be reinstated and placed in *statu quo*; the fort of St. Mark to be delivered up to the Spanish commandant, together with all the ordnance, warlike stores, and effects found in that fortress; and all damages and injuries caused in the Floridas by the officers and troops of this Union to be fully indemnified and compensated. In the meantime, I repeat this most solemn protest in the name of my Sovereign, all which I shall duly communicate to His Majesty in the discharge of my duty.

I trust, sir, that you will be pleased to acknowledge the receipt of this note, and inform me of the resolution taken by the President thereon. In the meantime, I renew the expressions of my particular respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, June 24, 1818.

SIR: In the National Intelligencer, which is considered in this country as the Government paper, I have seen the publication of the attack, assault, and capture of the place of Pensacola by the American troops under the command of General Jackson; which publication is repeated in other papers of the Union, and of which I have yet seen no contradiction, either in the Government paper or in any other. Notwithstanding which, the fact appears to be so improbable, from its very enormity, that I cannot but think the publication has originated in some ill-founded rumor, and, under this impression, I have deferred proceeding to the Federal city, in the hope that some light might be thrown upon what has really taken place; but as I have yet received no official advice from the Governor of Pensacola, or any other Spanish authority upon this point, and as the publication in the Government paper is still circulating extensively, I cannot avoid applying to you, sir, and requesting that you would be pleased to inform me, in a positive, distinct, and explicit manner, what has occurred in this matter, together with all the circumstances relating to it.

I await your answer on this subject, as well as that in relation to my protest and reclamation concerning the seizure of the fort and bay of St. Mark, to which you have not yet been pleased to reply. I use this occasion to renew, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, July 8, 1818.

SIR: The article published in the National In-

telligencer, and reprinted in other papers of the Union, referred to in my late letter written at Bristol, has unfortunately been confirmed. General Jackson, with the American forces under his command, has not only violated the Spanish territory under the pretext of pursuing and chastising the Seminole Indians, but he has taken possession by force of arms, of the fort and bay of St. Mark, driven the Spanish garrison from those places, and sent them as prisoners to Pensacola, the capital of West Florida. Not satisfied with this enormous outrage, he marched against the latter place, and has, by open rupture and bloodshed, violated the peace existing between Spain and the United States. He demanded the surrender of Pensacola, as if war had been declared between the two nations; and on the refusal of the Spanish Governor to surrender or deliver up the place, the American commander, availing himself of his superior force, attacked it, and bombarded the castle of Barancas, whither the Governor had retired with his small garrison and such of the inhabitants as chose to follow him. Having surrounded that fortress, he gave orders for the assault, and carried it. The Governor, with all his people, were made prisoners of war, and were sent off, as it appears by the American General, to Havana, who proceeded to extend his authority over the whole of West Florida, by hoisting on its forts the flag of the United States.

Thus has peace been violated, and rights trampled under foot, which have hitherto been held as most sacred and inviolable by all nations.

These facts need no comment; they are notorious, and speak for themselves: their enormity has filled even the people of this Union with wonder and surprise, and cannot fail to excite the astonishment of all nations and Governments.

The American General can have neither pretext nor subterfuge, of which he can avail himself, to give the least color for this invasion and excessive aggression, unexampled in the history of nations. Whatever pretexts may be resorted to, to mislead and impose on the vulgar, will be frivolous, contradictory, and falsified by the very course of events, public and notorious. It cannot be supposed that the Indians, against whom the American commander directed his operations, received protection in Florida. They never received either favor or protection from the Spanish authorities, either within or without the territory under their jurisdiction.

It is notorious that several atrocious offenders and ringleaders of the South American rebels have repeatedly taken refuge within the limits of this Republic, when, being pursued by His Catholic Majesty's troops, they were on the point of falling into their hands. No one can be ignorant that the asylum granted to the unfortunate in cases of this nature has ever been respected by all civilized nations, not one of which ever took up arms to go and tear them from the foreign territory in which they had found an asylum, and still less to invade and take possession of such territory, in violation of an existing peace, and in contempt of all the laws and sacred prin-

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ciples on which the mutual security of independent States reposes; but it is superfluous to insist on venerable truths and axioms, which form an essential part of the law of nations, inasmuch as the cases to which I refer do not occur to require their application.

The Governor of Pensacola had conducted himself with the most scrupulous circumspection, to avoid giving the slightest ground of complaint to General Jackson, his officers, and troops. Neither he nor the Governor of East Florida was notified of the war against the Seminole Indians, nor were they informed of the just causes of that war; nor was any call made upon them to seek and punish those Indians in case of their having committed aggressions upon the lands or citizens of this Republic. Notwithstanding the total omission of all this, which was to have been expected as a regular and necessary consequence of the stipulations of the existing treaty, the aforesaid Governor granted no favor to the Indians, but forbade them to enter the Spanish territory; and when a small number of them came to Pensacola to receive the annual presents, the Governor allowed only a few of them to enter the place, without their arms, and immediately after dismissed them. He further took every necessary precaution to prevent their being supplied with arms and ammunition within His Majesty's territories. These facts being of public notoriety, and impossible to refute, there can be no excuse, pretext, or subterfuge offered to palliate a series of such unheard of outrages.

I refrain from entering into a minute detail of the particular excesses committed by the American commander, his officers, and troops. On taking a view of them, it would be inferred that the war against the Indians has been merely a pretext for General Jackson to fall, as a conqueror, upon the Spanish provinces, unprovided as they now are, and reposing in perfect security, for the purpose of establishing therein the dominion of this Republic upon the odious basis of violence and bloodshed. I confine myself, for the present, to the scandalous capture of the fort and bay of St. Mark, and to the attack and occupation of Pensacola and Barancas, by the American commander, who, carrying his military measures to their utmost extent, has reduced the whole of West Florida, driven off the Spanish Governor, troops, military and civil officers, and established, in their room, the laws and authorities of this Republic.

I am persuaded that the Government of the United States cannot have authorized this hostile, bloody, and ferocious invasion of the dominions of Spain; and in this belief I only do justice to its humane feelings, and the enlightened and upright principles which govern its policy. In the President's Message to Congress of the 25th of March last, I observe that "orders have been given to pursue and chastise the Seminole Indians; and that if, in the course of the war, it should be necessary to enter the Spanish territory, the authorities of Spain are to be respected, and the territory evacuated the moment the war

is at an end." I observe, too, that, in your official correspondence, you have given me assurances of the pacific views of your Government, and of the sincere desire of the President to preserve friendship and good understanding with the Government of Spain. Under these fortunate auspices, the most profound peace has subsisted between the two nations, to cultivate which has been the constant endeavor of His Catholic Majesty; and, at the same time, to give generous proofs of his high esteem, distinguished consideration, and perfect friendship for the United States, negotiations have been entered into with a view to terminate the existing differences between the two Governments to their mutual satisfaction; and the President will assuredly have been apprized of the generosity and frankness displayed by His Majesty in everything connected with the wishes manifested by this Republic, as far as the same have been compatible with the honor of his Royal Crown.

All these circumstances impress me with the belief that General Jackson has acted contrary to the orders of the President, tarnished the American name, and committed the reputation of his Government in the face of the universe. It is, therefore, my duty to protest, and I do hereby solemnly protest, in the name of the King, my master, against these public acts of hostility and invasion; and I demand, through you, of the President, in the name of my Sovereign, the prompt restitution of the fort and bay of St. Mark, also of Pensacola, Barancas, and other places in Florida, violently attacked and wrested from the Crown of Spain by the forces under General Jackson, in the midst of peace and the most positive assurances of friendship and harmony. In like manner, I demand the faithful delivery of all the artillery, warlike stores, and property, both public and private, taken at Pensacola, and other forts and places taken possession of by the American commander; indemnity for all the injuries and losses sustained by the Crown of Spain and the subjects of His Catholic Majesty in consequence of this act of invasion, and a satisfaction proportioned to the enormity of these offences; together with the lawful punishment of the General and the officers of this Republic by whom they were committed.

I therefore hope that the President, penetrated with indignation by acts of such enormity, will immediately comply with my demand, founded on such strict justice; and I impatiently await your answer to this note, which will communicate the resolution of the President for my information, in order that I may transmit the same to my Government with all requisite despatch.

In the meantime, I renew the assurances of my distinguished consideration and respect, and I pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, July 21, 1818.

SIR: With a view to avoid any delay in trans-

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mitting to my court official information of the events which have occurred in Florida, I have despatched to Madrid the courier I spoke to you of; and I greatly regretted that it was not in my power to forward, by the same opportunity, the answer of your Government to the reclamations and protests which, in the name of my Sovereign, I have presented to you, on the invasion and occupation of West Florida by the American army under General Jackson.

I have stated to my Government that I would send the said answer the moment I received it; and as one of the gentlemen attached to this legation will embark for Spain in a few days, I request you will be pleased, sir, to hasten your answer to my last note, that I may transmit it by this conveyance to the Government of the King, my master.

You must be aware of the expediency of a prompt and categorical answer; Spain expects it will not be delayed; and all the Powers await it, in expectation of those *eclaircissemens* which are claimed by the laws of nations, in consequence of an act of hostility enormous in itself, and incalculable in its consequences.

I momentarily await your answer, and in the meantime I seize this occasion to renew to you the assurances of my most distinguished consideration. God preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis De Onis.*

DEPARTMENT OF STATE,  
Washington, July 23, 1818.

SIR: I have had the honor of receiving your letters of the 24th June and 8th instant, complaining of the conduct of Major General Jackson in entering West Florida with the forces under his command, taking the Spanish posts of St. Mark and Pensacola, &c.

Without recurring to the long standing and heavy causes of complaint which the United States have had against Spain; to the forbearance with which they have been borne, without despairing of obtaining justice from her by amicable means; to the efforts equally unceasing and unavailing which they have made to obtain that justice; or to the extraordinary delays by which it has been protracted and is still withheld, it is thought proper on this occasion to call your attention to a series of events which necessitated and justified the entrance of the troops of the United States upon the Spanish boundary of Florida, and gave occasion to those transactions of the commander of the American forces against which you complain.

It cannot be unknown to you that, for a considerable time before the Government of the United States issued the orders for military operations in that quarter, the inhabitants of their frontier had been exposed to the depredations, murders, and massacres of a tribe of savages, a small part of which lived within the limits of the United States, far the greater number of them dwelling within the borders of Florida. The barbarous,

unrelenting, and exterminating character of Indian hostility is also well known to you; and, from the peculiar local position of these tribes, it was obvious that there could be no possible security for the lives of the white inhabitants of those borders, unless the United States and Spain should be reciprocally bound to restrain the portion of the Indians respectively within their territories from committing robbery and butchery upon the citizens and subjects of the other party. So forcibly was the necessity felt by both, that in the fifth article of the treaty of 27th October, 1795, the following remarkable stipulation is contained:

"The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas; and, the better to obtain this effect, both parties oblige themselves expressly to restrain by force all hostilities on the part of the Indian nations living within their boundaries; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last-mentioned Indians to commence hostilities against the subjects of His Catholic Majesty, or his Indians, in any manner whatever."

Notwithstanding this precise, express, and solemn compact of Spain, numbers, painful to recollect, of the citizens of the United States inhabiting the frontier—numbers, not merely of persons in active manhood, but of the tender sex, of defenceless age, and helpless infancy, had at various times been butchered, with all the aggravation and horrors of savage cruelty, by Seminole Indians, and by a banditti of negroes sallying from within the Spanish border, and retreating to it again with the horrid fruits of their crimes.

At a former period the Governor of Pensacola had been called upon, by letter from Major General Jackson, conformably to the stipulated engagement of Spain and to the duties of good neighborhood, to interpose by force and break up a stronghold of which this horde of savages and fugitive slaves had possessed themselves on the territory of Florida. The answer acknowledged the obligation, but pleaded an incompetency of force for its fulfilment. Copies of these important documents are herewith transmitted to you; and it may be within your knowledge and recollection that the orders and the competent force which Governor Zuniga stated in his letter that he had solicited from his Governor General, and without which he declared himself unable to destroy this fort, created upon Spanish territory for the purposes of united civilized, and savage, and servile war against the United States, were never furnished; and that the United States were finally compelled to accomplish its destruction by their own force.

The permanent and unvarying policy of the United States, with regard to all the Indian tribes within their borders, is that of peace,



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friendship, and liberality; and so successful has this policy been, that, for many years, no instance has occurred of their being in hostility with any Indian tribe, unless stimulated by the influence of foreign incendiaries. Even after the repeated commission of these depredations and massacres by the Seminole Indians, at the very moment when the Government of the United States was reluctantly compelled to employ their own military force for the protection of their people, offers of peace were tendered to them, and rejected.

Nor has the respect manifested by this Government for the territorial rights of Spain been less signal and conspicuous, even after the full and formal notice, by the Governor of Pensacola, of the incompetency of his force either to perform the duties of neutrality, or to fulfil the obligations of the treaty. When it became necessary to employ the military force of the United States for the protection of their frontier, on the 30th October last, the commanding officer in that quarter, while directed to take other measures for suppressing the hostilities of the Indians, was expressly instructed not on that account to pass the line, and make an attack upon them within the limits of Florida, without further orders. On the 2d of December instructions to the same effect were repeated. On the 9th of December they were again renewed, with the modification suggested by the continuation of Indian outrages, that, should the Indians assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, the American officer was authorized in that event to exercise a sound discretion as to the propriety of crossing the line, for the purpose of attacking them, and breaking up their towns. On the 16th of December, upon information that an officer of the United States, with a detachment of forty men, had been attacked, and all destroyed, with the exception of six who made their escape, four of whom were wounded, the instruction, of which the following is a copy, was issued from the Department of War to the American General then in command:

"On receipt of this letter, should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line, and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish fort. In the last event, you will immediately notify this Department."

These, with a subsequent instruction of the 26th of December to the Commander-in-chief, referring to them, and directing him, with a view to them, to adopt the necessary measures to terminate a conflict which it had ever been the desire of the President, from considerations of humanity, to avoid, but which was made necessary by the settled hostilities of the Indians, are all the instructions given in relation to Florida.

By the ordinary laws and usages of nations,

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the right of pursuing an enemy who seeks refuge from actual conflict within a neutral territory, is incontestable. But, in this case, the territory of Florida was not even neutral. It was itself, as far as Indian savages possess territorial right, the territory of Indians with whom the United States were at war. It was their place of abode; and Spain was bound by treaty to restrain them by force from committing hostilities against the United States—an engagement which the commanding officer of Spain in Florida had acknowledged himself unable to fulfil. Of the necessity there was for crossing the line, what stronger proofs could be adduced than that it was within that line the American General met the principal resistance from the Indians which he encountered in the whole campaign; that within that line, at their towns which he destroyed, he found displayed, as barbarous trophies, the mutilated remnants of our wretched fellow-citizens, the murdered women and children, the accumulated barbarities of many years?

You have seen that no instruction or authority, inconsistent with the declaration of the Message of the President of the United States of the 25th of March last to Congress, was ever issued to the commander of the American forces. The possession which he took of the fort of St. Mark, and subsequently of Pensacola, was upon motives which he himself has explained, and upon his own responsibility. For his justification in the adoption of both those measures, he states them to have been necessary upon the immutable principles of self-defence:

That, at an early period of his operations, he had given full notice of their object to the Governor of Pensacola, by communication, dated the 25th of March last, warning him that every attempt on his part to succor the Indians, or prevent the passage of provisions for the American troops in the Escambia, would be viewed as acts of hostility:

That, in defiance of this admonition, the Governor of Pensacola did both give succor to the Indians, and delay the passage of the provisions to the American army, and thereby subjected them to the severest privations:

That the Governor of Pensacola had caused it to be directly reported to the American General that Fort St. Mark had been threatened by the Indians and negroes; and expressed serious apprehensions, from the weakness of the garrison and defenceless state of the works, for its safety:

That this information was confirmed to the American General from other sources, upon which he could rely, and completely warranted the amicable occupation by him of that fort:

That, upon his entering the fort, evidence, clear, unequivocal, and manifold, was evinced of the duplicity and unfriendly feeling of the commandant—evidence demonstrating, beyond the power of denial, that, far from acting in the spirit of that sacred engagement of his Sovereign, to restrain by force his Indians from hostilities against the United States, he had made himself, by every act

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in his power, a partner and accomplice of the hostile Indians, and of their foreign instigators:

That the same spirit of hostility to the United States was discovered by the Governor of Pensacola himself, by his refusal to permit, unless by the payment of exorbitant duties, the passage of provisions to the American army; by the reception and succors given to the Indians at various times; and, finally, by a letter which he sent to the American General, denouncing his entry into Florida as an aggression against Spain, and threatening, unless he should immediately withdraw from it, and should he continue what he thus styled aggression, that he would repel force by force. This was so open an indication of hostile feeling on the part of Governor Mazot, after he had been early and well advised of the object of General Jackson's operations, that this officer no longer hesitated on the measures to be adopted—the occupation of Pensacola and the Fort of Barancas.

The charges alleged by General Jackson against the commandant of St. Mark's, are not known even to have been denied. The Governor of Pensacola has partly, and but partly, contradicted those which applied to himself. He assured General Jackson that the information received by him of the numbers of Indians who had been received and harbored at Pensacola was erroneous. It is possible that the numbers may have been somewhat exaggerated in the reports which General Jackson had received. But within ten days after the time stated in his letter to the Governor of Pensacola of this assemblage of Indians at that place, a large body of them were overtaken, surprised, and defeated by the forces of the United States, within one mile of Pensacola. Nor was it until after that event that the Governor issued his proclamation for refusing them supplies, and gave them the advice under which eighty-seven of them surrendered themselves to the American officer. But the measures of General Jackson were not founded upon one solitary fact. A combination of circumstances, all tending to convince him of the hostile spirit of the Governor, remains yet uncontradicted; and the General has furnished proofs that Governor Mazot's assertion, that there had been, since the surrender of those eighty-seven Indians to Captain Young, only two in Pensacola, and those in jail, was itself very incorrect. Besides the Alabama chief, included in the capitulation, one wounded Indian was found in the fort at Barancas. Holmes, a noted Red Stick chief, left Pensacola but the day before the American troops took possession, and a number of other Indians were seen about the same time within a few miles of Pensacola, and succeeded, with the aid of Spanish officers, in eluding the pursuit of the American troops.

A conduct not only so contrary to the express engagements of Spain, but so unequivocally hostile to the United States, justly authorizes them to call upon His Catholic Majesty for the punishment of those officers who, the President is persuaded, have therein acted contrary to the express orders of their Sovereign. In the full con-

fidence that your Government will render to the United States ample justice in this regard, the President has directed all the proofs relating thereto to be imbodyed, as the ground of an application to that effect to your Government.

In the meantime, I am instructed by the President to inform you that Pensacola will be restored to the possession of any person duly authorized on the part of Spain to receive it; that the fort of St. Mark, being in the heart of the Indian country, and remote from any Spanish settlement, can be surrendered only to a force sufficiently strong to hold it against the attack of the hostile Indians; upon the appearance of which force it will also be restored.

In communicating to you this decision, I am also directed to assure you that it has been made under the fullest conviction, which he trusts will be felt by your Government, that the preservation of peace between the two nations indispensably requires that henceforth the stipulations by Spain to restrain by force her Indians from all hostilities against the United States should be faithfully and effectually fulfilled.

I pray you to accept the assurance of my high consideration.

JOHN QUINCY ADAMS.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Washington, M. T., April 23, 1816.*

SIR: I am charged by my Government to make known to you that a negro fort, erected during our late war with Britain, at or near the junction of the Chatahoochee and Flint rivers, has been strengthened since that period, and is now occupied by upwards of two hundred and fifty negroes, many of whom have been enticed from the service of their masters, citizens of the United States; all of whom are well clothed and disciplined. Secret practices to inveigle negroes from the citizens of Georgia, as well as from the Cherokee and Creek nations of Indians, are still continued by this banditti and the hostile Creeks. This is a state of things which cannot fail to produce much injury in the neighboring settlements, and excite irritations which eventually may endanger the peace of the nation, and interrupt that good understanding which so happily exists between our Governments.

The principles of good faith, which always insure good neighborhood between nations, require the immediate and prompt interference of the Spanish authority to destroy or remove from our frontier this banditti, put an end to an evil of so serious a nature, and return to our citizens and friendly Indians inhabiting our territory those negroes now in said fort, and which have been stolen and enticed from them. I cannot permit myself to indulge a belief that the Governor of Pensacola, or the military commander at that place, will hesitate a moment in giving orders for this banditti to be dispersed, and the property of the citizens of the United States forthwith restored to them and our friendly Indians; particularly when I reflect that the conduct of this

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banditti is such as will not be tolerated by our Government, and, if not put down by Spanish authority, will compel us, in self-defence, to destroy them. This communication is intrusted to Captain Amelung, of the 1st regiment United States infantry, who is charged to bring back such answer as you may be pleased to make to this letter. In your answer you will be pleased to state whether that fort has been built by the Government of Spain, and whether those negroes who garrison it are considered as the subjects of His Catholic Majesty, and, if not by His Catholic Majesty, by whom, and under whose orders, it has been erected.

ANDREW JACKSON,

*Major Gen., com. Div. of the South.*

To the GOVERNOR of Pensacola,  
Or Military Com. of that place.

A true copy:

ISAAC L. BAKER, *Aid-de-camp.*

PENSACOLA, March 26, 1816.

MOST EXCELLENT SIR: On the 24th of the present month, Captain Amelung, of the 1st United States regiment, put into my hands your excellency's letter, dated at Washington, Mississippi Territory, on the 23d of April last, in which, after apprising me that your Government had given it in charge to you to inform me that the fort of the negroes, erected during the late war with Great Britain, near the junction of the Chatahochee and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are citizens of the United States,) and that all of them are well armed, provisioned, and disciplined, you make many wise reflections with respect to the serious injuries which may result from tolerating such an establishment, not only to those in the immediate neighborhood of it, by disturbing the peace of the nation, but likewise to the good understanding which happily exists between our respective Governments; you enter into an investigation to show what the Spanish authorities ought to do to put an end to an evil of so serious a nature, in the mode prescribed by those principles of good faith which are the foundation of friendly neighborhood among nations; you distinctly state what this Government ought immediately to do, in failure of which your Government will be obliged to do it, to insure the safety of the inhabitants of the United States; and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish Government, and whether the negroes who compose its garrison are deemed subjects of His Catholic Majesty, and, if the fort was not built by Spanish authority, to state by what authority, and by whose order, it was built.

In answer to your excellency, I will state, with the veracity which comports with the character of an honorable officer, in which class I rank

myself, that having arrived at this place nearly at the close of the month of March preceding, and being informed of what your excellency has communicated to me, with this difference, that the fort, instead of being where you place it, is to be found on the eastern bank of the Appalachicola, at about fifteen miles from its mouth, or entrance into the sea, I lost no time in proposing to my Captain General the measures which appeared to me proper, as well for securing the inhabitants of the country under my command from damages, losses, and injuries, which they have suffered and still suffer from this establishment, as to prevent the American citizens and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer; and, consequently, your excellency, who knows how limited are the powers of a subordinate officer, cannot be surprised that I should make known to you that, although my mode of thinking exactly corresponds with yours as to the dislodging of the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my Captain General, and the assistance necessary to enable me to undertake the enterprise with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed; and, should it authorize me to act, your excellency may rest assured and persuaded that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil which is felt to the full extent stated in your letter by the inhabitants of this province, who are subjects of my Sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation your beforesaid letter may be considered fully answered, as it gives you to understand that, thinking as your excellency thinks, with respect to the necessity of destroying the negroes, the fort of Appalachicola, occupied by them, was not constructed by order of the Spanish Government; and that the negroes, although in part belonging to the inhabitants of this province, and as rational beings, may be subjects of the King, my master, and deemed by me insurgents or rebels against the authority, not only of His Catholic Majesty, but also of the proprietors from whose service they have withdrawn themselves—some seduced by the English Colonel Edward Nicholls, Major Woodbine, and their agents, and others from their inclination to run off. But as your excellency manifests a particular desire that, in case the fort was not erected by Spanish authority, I should state by what authority and by whose order it was erected, I have no difficulty in satisfying your curiosity, by informing you that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahochee and Flint rivers, which it appears no longer exists, were built by the order of the beforesaid Colonel Nicholls. I will not assure you that he

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did it under authority from his Government; but I can say that he proceeded to place artillery, munitions, and provisions in it, by the arrangement of Vice Admiral Malcolm; and that, when Colonel Nicholls and the troops of his detachment, after the conclusion of the expedition against Louisiana, withdrew from that point, he left orders with the negroes, totally contrary to the incontestable right of sovereignty which the King, my master, exercises from the line of thirty-first degree of north latitude to the south. My predecessors in this Government have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded by those on whom this duty devolves.

I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants, and that my present inaction does not proceed from a want of inclination. I likewise flatter myself that, until my Captain General decides, no steps will be taken by the Government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the King, my master, in the district of Appalachicola, which is a dependency of this Government; and, finally, I conclude by assuring your excellency that it will afford me particular satisfaction to have opportunities of evincing my desire, not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective Governments, but also to prove to your excellency the high opinion I entertain of your virtues and military talents.

God preserve your excellency many years.

MAURICIO DE ZUNIGA.

His Excellency A. JACKSON.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, July 27, 1818.

SIR: It is some time since I have received positive and circumstantial information that a person, acting under a commission from the rebels at Buenos Ayres, had given orders for the building of two frigates, of twenty-eight or thirty guns each, at New York; and that, armed, equipped, and manned with citizens of this Republic, they are to proceed from that port on a cruise against the commerce and subjects of His Catholic Majesty.

Although so manifest a violation of the laws of the United States, to the injury of my Sovereign, imposed on me the duty of immediately soliciting of the President such measures as are in conformity with the laws of the Union and the peace and good understanding existing between the two nations, and would put a stop to this evil, yet, faithful to the system I have laid down of not trespassing on the attention of your Government, except in cases of indispensable necessity, I directed His Majesty's Consul at New York, after he had obtained all the legal

evidence required by the courts, to have recourse to them with that calmness and confidence with which the justice of his cause should inspire him when submitted to impartial and enlightened magistrates.

His Majesty's Consul has just informed me that, agreeably to my instructions, he had applied to the district attorney, stating that he was possessed of sundry declarations of persons, corroborating each other, showing that the laws of the United States had been violated, and requesting him to cause the said vessels to be stopped and proceeded against, together with the parties concerned in their equipment, in the manner prescribed by the act of Congress of the twentieth of April last, section 11. The district attorney appears not to have been very anxious to carry the act into execution, as he replied that he would not do so, although fifty such declarations were presented to him. I do not pretend to inquire into the motives of the attorney's feelings or conduct, which, to say the least, was very extraordinary; but I deem it indispensable to transmit to you four of the original declarations referred to, that they may be laid before the President, and that he may be pleased to direct, with the urgency required by the case, the collector of the customs at New York to stop the above-mentioned vessels, in order that they, as well as the parties engaged in their outfit, may be proceeded against in due form of law, and the necessary force employed for the faithful execution of his duty.

This demand, which I renew in the name of my Sovereign, being in strict conformity with the laws of this Republic, I cannot for a moment doubt that the President will readily comply with it; and that you will have the goodness to advise me of its having been carried into effect, that I may direct the Consul to produce the necessary testimony for the elucidation and decision of a case transcendently important to the interests of my Sovereign.

I renew to you the assurances of my respect, and I pray God to preserve you many years.

LUIS DE ONIS.

STATE OF NEW YORK, *City of New York, ss:*

Samuel Samuels, by profession a mariner, at present in the city of New York, being duly sworn, says: That, about the 11th or 12th of July instant, deponent was at Dominick Morris's house, where they were shipping hands for the Curiazo; he met there a Mr. Brown, who was the man who attended on shore to the enlisting and shipping of the crew; this gentleman asked deponent whether he did not wish to ship on board of the Curiazo, and upon this requested him to walk up stairs, and he would inform deponent all about the object of the vessel; they went up stairs, and Mr. Brown then said that the Curiazo was destined to go around Cape Horn, or would go to Buenos Ayres in the patriot service; that she would join the other ship, which was lying in North river, named the Horatio, and they would be absent about two years; de-

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ponent signed articles, at the office of the notary, Mr. Palmer; he did not read the articles at the time of signing; the wages were fourteen dollars a month, and two months' advance, which sum is paid in like manner to all the crew, fourteen dollars at the time of signing the articles, and fourteen dollars after getting on board; he went on board on Tuesday, the 21st of July instant, and found sixty hands on board, agreeably to the muster which was made; and there were others on shore who had enlisted but not yet come aboard; there were a captain, several lieutenants, a sailingmaster, many midshipmen, a boatswain, boatswain's mates, boatswain's yeomen, several quartermasters, a gunner, gunner's mate, and two quarter-gunners, two captains for each of the tops—fore-top, mizen-top, and main-top, two captains of the forecastle, two captains of the afterguard, a captain of the hold, and green hands to form a company of marines; deponent was captain of the main-top of the larboard watch; the hands were exercised every day in loosing and handling the sails; some of the hands were employed in making wads for the cannon; the guns were not yet come on board; but they were expected daily, and the hands conversed about the stations which they would hold at the guns; the exercising of the crews, which he has before mentioned, was the same as is customary in the service of the United States on board their vessels of war; there was a regular watch kept up during the day and night, one-half of the crew being on watch all the night; the hands were all piped by the boatswain and the boatswain's mate at their several meals; when officers came on board, the sides were manned for them by way of salute; and, in every respect, the discipline and duty kept up was the same as is practised in the navy service.

When the deponent shipped, the notary told him to leave a will and power to enable the landlord to receive the prize money which deponent might become entitled to; which deponent did accordingly in favor of Dominick Morris. The general understanding on board the vessel is, that they were to cruise along the coast of South America after their arrival at Buenos Ayres. The vessel is built in every respect as a vessel of war; the water below is secured exactly in the manner that it is done on board a man-of-war, which is different from what is usual in the merchant service. Deponent further saith not.

S. SAMUELS, his X mark.

Subscribed and sworn to before me, this 23d day of July, 1818.

JAMES HOPSON, *S. Justice.*

STATE OF NEW YORK, *City of New York, ss:*

George W. Lynch, of the city of New York, merchant, being duly sworn, says: That on the 23d day of July instant, he went on board the ship Curiazo, lying in the North river, in this port, in company with a Mr. Atkinson, who said he was the purser of the said vessel; deponent counted thirty cannon lying on the deck, and a

number of new gun-carriages which were lying upon one another, and appeared to be equally numerous; he was presented to the several officers, was told by them that there were a captain, four lieutenants, and a number of midshipmen; that the captain was named Delano, the first lieutenant is named Van Beuren, the second Grinnelaw, the third Smith, and the fourth Cobbett; he was told by the purser that the vessel, together with the Horatio, another ship lying near, was bound to Buenos Ayres; there appeared to be a great number of men on board; he was told by said purser that it was their intention to take one hundred men; that the crew were paid two months' advance, and that, as a further inducement to them to ship, they had the prospect of prize money. In conversation with a Mr. Sullivan, who is at the head of the surgical department for the two vessels, and was now on board the Curiazo, he (Mr. Sullivan) said, "I am sorry that the guns are not carronades instead of gunnades;" but then immediately added, "however, it is better as it is; we shall want long guns to fight the Spaniards." Deponent was carried through the vessel, and the different parts of it were pointed out to him; the captain's room, the lieutenants' room, and the midshipmen's room, were severally and respectively designated; there was a quantity of cannon balls between the decks; all hands were piped by the boatswain while deponent was on board. This vessel is newly built, has been launched but a short time, and is now preparing for her first voyage; she is pierced for many guns, and is built in every respect like a frigate.

Deponent left this vessel in company with the surgeon, Mr. Sullivan, and proceeded with him to the other ship, the Horatio. This gentleman is the surgeon of the Horatio, and told deponent that he had selected the surgeons for this and the other vessel, (the Curiazo;) that he had examined them in order to ascertain that they were duly qualified; he mentioned that the crews of each vessel would consist at present of one hundred men for each, but that their complement was three hundred men for each; that the medical list which was handed to him for both vessels was for six hundred men; he showed deponent his medicine chest, his tools, and other implements, and said that he had everything in complete order; he showed deponent into a room below the cabin, which he said would be his station in time of action; deponent said he supposed there would be little fighting, to which Mr. Sullivan answered, "I don't know, the Spaniards have got a fine frigate out there with five hundred men." Deponent was told on board of this vessel by the said surgeon, and by another officer, the second lieutenant, that, besides the captain, Skinner, who was Commodore of the two vessels, the Horatio had four lieutenants and a number of midshipmen; the first lieutenant is named Currie, and the second Eakin; deponent was shown into the several rooms of the captain, lieutenants, and midshipmen; the cannon had not yet been brought on board of this vessel, but the officers

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told deponent they expected them shortly; this vessel resembles the other in every respect, was built at the same time, and has never yet been to sea. Speaking about the complement of men for these vessels, Mr. Eakin, the second lieutenant, told the deponent that although they would take out for the present only one hundred men each, they would have no difficulty in making up the full number, which would be three hundred, at Buenos Ayres, because sailors there would leave the privateers to enter these vessels. He said that if Mr. Aguirre, when he commenced the building of these vessels, had employed a merchant, instead of making the contract himself, he would have saved a great deal of money, at least fifteen per cent.; that Dacy and Didier, of Baltimore had received money from Aguirre, and had offered to transact all the business of these vessels, and to bond them for five per cent., but that he was unwilling to allow them more than two and a half per cent.; they offered also to allow him bank interest for his money while it was in their hands; but they came to no agreement, owing to the smallness of the commission which Aguirre was willing to allow them; and that the vessels had cost him a very large sum of money, everything having been fitted up in the most costly manner; that the cannon had been made by Mason, of Washington. The surgeon, Mr. Sullivan, speaking of the discipline of the two vessels, said that of the Horatio was superior to the Curiazo; that, on board of the Horatio, the medical returns were made daily, the same as on board a man of war. When deponent went on board of the Horatio, the sides were manned, which was also done when he left it; this ceremony is a compliment or salute to the person who comes on board, and is customary on board vessels of war, and not in merchant vessels.

While on board the Horatio, the said Eakin said that he had always been treated well by the Spaniards, but said some other words, the import of which was that this was a speculation, and that he must do the best he could for himself; Mr. Currie, the first lieutenant, also said that he had always been well treated by the Spaniards, and that he would treat them so until he could not help doing otherwise—alluding to what he would do in time of battle.

Mr. Wynans, of the firm of Ten Eyck, Wynans & Co., told deponent that they, together with two other block-makers, made the blocks for both of the said ships; they were employed by Captain Skinner and Mr. Aguirre jointly, both being together; but Mr. Aguirre gave the directions to Skinner, and appeared to be the owner; that he (Wynans) called frequently upon Aguirre for directions; and, when all the work was done, Aguirre paid him.

Mr. Bakewell, a sailmaker, told deponent that Mr. Aguirre made the agreement with him for the sails of one of the ships, and paid him the amount.

GEORGE W. LYNCH.

Sworn this 25th day of July, 1818, before me,  
CHARLES CHRISTIAN.

STATE OF NEW YORK, *City of New York*, ss :

John B. Sickles, being duly sworn, says: That on the 22d of July instant he called upon Joseph Skinner, whom he understood to be the captain or commander of the two vessels named the Curiazo and Horatio, which are fitting in this port for Buenos Ayres; he met him in the neighborhood of Washington Hall, at his residence, and found a number of gentlemen collected; there were about twenty, among whom was Mr. Aaron H. Palmer, the notary; the conversation was exclusively relating to those vessels, their arms and equipment, some saying that a portion of the guns were larger than others. On the 23d of July he saw Captain Skinner again, and asked him to provide the deponent with an officer's birth on board of one of the said vessels; Captain Skinner referred him to Mr. Palmer, who said that all the officers' stations were full; deponent repeated his desire to be employed, and Skinner told him he might go as supernumerary in the capacity of acting midshipman. During this conversation Mr. Palmer told Captain Skinner that he was short of funds; to which Skinner replied, "You must go to Mr. Aguirre for them, you know I am not the owner." On the 24th of July deponent saw Captain Skinner again at Palmer's office; deponent asked when he should go on board. Skinner told him during the course of the day. Deponent accordingly went on board on the 24th, in company with William Nesbit, a young man, who was also told by Captain Skinner that he might go as supernumerary; when deponent got on board of the ship Horatio, which was lying in the stream, he reported himself to Lieutenant Currie, who was the first lieutenant on board thereof. Currie told deponent and the said Nesbit that he could not receive them unless they brought a written order from the captain, because they had so many officers already; deponent remained on board about four hours, during which time he got into conversation with several of the officers; one of them, named Weed, told deponent that he is the captain of marines on board; that when the vessels arrived out at Buenos Ayres the officers expected to receive their warrants from the Buenos Ayrean Government; that Captain Skinner had promised them that he would get them from that Government for these officers; deponent was told by Mr. Weed that there were three lieutenants on board, that there were eight midshipmen on the list, and twelve supernumeraries besides deponent and Mr. Nesbit; that after the vessels got out to sea, if these persons were wanted, they would be turned forward; this deponent understood to allude to their being wanted in time of action. He said they had on board at present ninety-five men, and they intended to get more; he said he expected that it would be a troublesome job for him to exercise his marines, which he would have to do soon; the discipline on board this vessel is the same as that on board a vessel of war; the watch was changed while deponent was on board, and the lieutenants also changed their watch, the hands being piped by the boatswain; the arm chest, containing guns,

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pistols, cutlasses, &c., was brought on board while deponent was there; he was told that the great guns were expected on the following day, (the 25th,) that the guns of the Curiazo were eighteen pounders, between carronades and gunnades, but that those of the Horatio were long eighteens, that being the Commodore's ship; that they were brass guns, and had been selected for this vessel; that these guns were different from those of the other vessel, because these were intended for long fighting, or fighting at a distance, and the others for close engagement. After being on board for several hours, deponent came ashore with the said William Nesbit, and called upon Captain Skinner, told him what Lieutenant Currie had said, and asked him for an order, which Captain Skinner gave, and which is in the words following: "Mr. Currie: Sir, you will please to receive Mr. J. B. Sickles and William Nesbit on board the ship Horatio as supernumeraries, and you will oblige yours, Joseph Skinner. July 24, 1818." This note is directed "Mr. William Currie, ship Horatio." Deponent further says, that when he was on board the Horatio on the 24th, the officers were speaking about the cannon which was expected on board the Horatio, and that which was on board of the Curiazo, and said that they would mount it, because they did not expect that there would be any opposition from the Spanish Consul; there was a large quantity of potatoes on board, which they were employed in assorting, and, while thus engaged, one of the officers said those were very bad potatoes for a cruise; the number of barrels deponent supposes nearly two hundred. And further the deponent saith not.

JOHN B. SICKLES.

Sworn this 25th day of July, 1818, before me,  
C. CHRISTIAN, *S. Justice.*

*Don Luis De Onis to the Secretary of State.*

BRISTOL, July 28, 1818.

I had the honor yesterday to transmit to you the declarations of four individuals, affording the most positive proof of the violation which has taken place in the port of New York of the laws of this Republic, to the signal injury of the interests of my Sovereign. I now enclose three other declarations, corroborating the former, and establishing the fact to which I refer.

I assure myself that, in consideration of these circumstances, you will have no doubt of the justice of the demand I now make, in the name of the King, my master, or of the urgency with which I claim of the President to issue the necessary orders to the collector of the customs at New York to detain the two Buenos Ayres armed ships alluded to, and the requisite instructions to have the case immediately brought before the proper tribunal.

I trust, sir, that you will have the goodness to transmit to the aforesaid collector the seven declarations forwarded to you, for the purpose of preventing the escape of these two armed vessels, as they have already endeavored to do; it being

confidently relied on that, if the suit be once instituted, nothing can save them from the impartial justice of the court.

I beg you to pardon this trespass on your time to which circumstances have compelled me, and that you will accept the fresh assurances of my constant respect. God preserve you many years.  
LUIS DE ONIS.

STATE OF NEW YORK, *City of New York, ss:*

James Young, by profession a mariner, at present in the city of New York, being duly sworn, says: That about three weeks ago the deponent was requested by a former shipmate of deponent's, named David Rees, to enlist on board the ship Curiazo. Deponent went on board that vessel, and there saw Mr. Griannelow, who was the second lieutenant thereof. This gentleman gave deponent a note to Mr. Brown, who was the shipping officer of the vessels, recommending him to take the deponent as boatswain's mate for the said vessel. Deponent saw Mr. Brown, who told him there was no vacancy for boatswain's mate, because he had already shipped two, but that he might have the birth of quarter-gunner; this birth deponent accepted, and afterwards went to the office of the notary in Pine street, whose name deponent believes is Palmer. At this time deponent was told by Mr. Brown that the vessel was going to Buenos Ayres or to the Cape of Good Hope. Deponent did not read the articles when he signed them, which was about the same time before mentioned. Deponent went on board the said vessel, the Curiazo, which is commanded by Captain Paul Delano. This vessel is pierced for thirty-two guns, although there may be more, as deponent has never counted the number of ports. Since deponent has been on board, they have taken in a great quantity of extra spars and rigging, and a quantity of cordage, more than is used in the merchant service. She has a long-boat, yawl, and sundry other boats, six or seven in number altogether. Deponent continued on board until last Friday, the 17th instant. There are on board, and in the service of the vessels, a captain, three persons whom deponent knows to be lieutenants, a sailingmaster, master's mate, and more than half a dozen midshipmen, but how many precisely deponent does not know. When he left the vessel there were about seventy hands or sailors on board; and deponent was informed on board, by the people generally, that the number was to be increased to one hundred and fifty more. The third lieutenant said, in deponent's presence, that when they had one hundred and fifty more they would look quite smart. There are a boatswain and two boatswain's mates, four quartermasters, two captains of the fore-top, two of the main-top, and two of the mizen-top, two captains of the after-guard, two quarter-gunners, of which the deponent was one, a captain of the hold, and boatswain's yeoman. The crew are mustered every Sunday; the hands are piped to breakfast, dinner, and supper; and when an officer comes on board, the boatswain attends the side, and the whole service and duty is performed in every respect

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the same as is done on board a man-of-war, which deponent is conversant with, having served in the English navy nearly five years. A quartermaster is kept constantly on the look out, to prevent any persons coming on board without leave, and at night some watch forward, and some aft. It is the understanding of all hands on board, that when they arrive at Buenos Ayres they will be employed in the service there; and the officers have said they will make their fortunes by it. The boatswain, Mr. Crisp, told deponent yesterday that, the night before, the cannon were taken on board. James Johnson, the quartermaster, told deponent the same thing, and that thirty-two eighteen pounders had been taken on board, besides the quantity of shot. The same was mentioned by the boatswain's mate. He further says that the above deposition has been this day read to him, and that he declares the same to be in every respect correct. The *Curiazo* is a new vessel, just built in the port of New York, and has never been to sea. Captain Joseph Skinner, deponent has heard and believes, is captain of another ship, also lately built in the port of New York, and which has not yet sailed, but which is intended to go on the same service with the *Curiazo*. The name of the first lieutenant is Mr. Van Beuren.

JAMES YOUNG.

Sworn this 25th day of July, before me,

GEO. W. MORTON,

*U. S. Commissioner, S. D. N. Y.*

STATE OF NEW YORK, *City of New York, ss :*

David Rees being duly sworn, says: That he had heard, read, and examined the preceding deposition of James Young; that all the facts therein stated, relating to the condition and armament of the said ship *Curiazo*, are correct and true in every respect; that deponent is employed at present on board the said ship *Curiazo* in the capacity of boatswain's yeoman; he was shipped by Mr. Brown, the shipping officer of the vessel; he signed articles at Mr. Palmer's; has been on board the *Curiazo* since the 11th of July instant. On the 22d and 23d of July, the great guns were taken on board; last evening, and until a late hour of night, these cannon were taken from on board again, as also the shot, and were put on board of a sloop which, it was mentioned, and generally understood on board, was going down towards Sandy Hook, to be put on board again there. Captain Paul Delano commands the *Curiazo*; that a few days ago deponent told said captain that he could wait no longer, and would not go with the vessel; Delano urged him to remain, said he was only waiting for his sweetmeats, (meaning his cannon,) and that, as soon as they were got on board, they would show the Spaniards play; that at present they cleared out for Buenos Ayres, and all hands shipped as seamen, because they did not dare to do otherwise; but that as soon as the vessels got out to sea, then the several stations would be assigned to the men, respectively. This vessel is completely a frigate,

duty is done on board the same as in the State service, and she has forty-two different signals, many of which deponent has seen. Captain Joseph Skinner commands the other ship, called the *Horatio*, which is to be used in the same service; he is the commodore of both vessels. Deponent was going to hoist a pennant one morning on board the *Curiazo*, when the lieutenant ordered him to stop and see whether the commodore (meaning the other ship, the *Horatio*) would hoist, and, finding that he did not, deponent stopped, and the pennant was not hoisted.

Both these vessels were lately built in New York; they have not yet been to sea.

DAVID REES.

Sworn this 25th day of July, 1818.

GEORGE W. MORTON,

*Commissioner in the circuit court S. D. N. Y.*

CITY OF NEW YORK, *ss :*

James Stoughton, being duly sworn, says: That the preceding are correct copies of original depositions now in the possession of deponent, and which he retains for greater safety in the matters therein mentioned.

JAMES STOUGHTON.

Sworn this 26th day of July, 1818, before me,

GEO. WILSON, *N. P. New York.*

STATE OF NEW YORK, *City of York, ss :*

Thomas Stoughton, Consul of Spain, being duly sworn, says: On the 1st day of September last, (1817,) he had a conversation with Mr. Noah Brown, of the city of New York, who told him that Don Manuel Hermenegildo de Aguirre, the agent or representative from the Buenos Ayres Government, had contracted with him (Brown) and with Mr. Cheeseman, of this city, to build two vessels, of twenty-eight guns each, for the use of the Government of Buenos Ayres; that their tonnage would be seven hundred tons each, for which he would pay forty dollars a ton for the hulls; that they would be launched about the 30th December, 1817; that they would cost, when armed, about eighty thousand dollars each.

THOMAS STOUGHTON.

Sworn this 26th July, 1818, before me,

GEO. WILSON, *N. P., New York.*

*Don Luis de Onis to the Secretary of State.*

BRISTOL, August 5, 1818.

SIR: I have received your note dated the 23d July, by which you are pleased to reply to mine of the 24th of June and the 8th of July last, on the subject of the invasion of West Florida by the American forces under the command of General Jackson, in the midst of peace, and the most solemn assurances of amity and good understanding repeatedly given to His Catholic Majesty by this Republic.

It is very painful to me to observe, by your answer, that the President does not view in the same light I do the enormous outrages committed by that officer; and that, in citing the specious



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motives of which he has availed himself to gloss them over, you present them as fully justifying the conduct of the General, and exonerating the United States from all responsibility in the case. I shall take up these pretended motives in the same order you have arranged them, and demonstrate, in a simple manner, their total want of foundation, and their incompetency to palliate, in the slightest degree, the invasion of a province of a friendly Power reposing in the security of peace, under the safeguard of the public faith.

You begin by reproducing the old grievances complained of by the United States, and which have been brought forward by your Government, among the subjects of dispute now pending between the Governments. Conceiving it superfluous to resume the arguments which have been formerly advanced to refute them, I shall for the present merely refer to them.

You state, in the first place, "that it cannot be unknown to me that, a considerable time before the Government of the United States issued the orders for military operations in that quarter, the inhabitants of their frontier had been exposed to the depredations and massacres of a tribe of savages, the greater number of whom dwelt within the borders of Florida." It is true that in the newspapers I saw accounts of such depredations and massacres, but I never knew the certain motives which had occasioned them. In the correspondence of the Spanish Governors of the Floridas, I observe continual complaints of the Indians to those Governors, stating the incessant injuries and vexations committed on them by the citizens of this Republic inhabiting the frontiers of both the Floridas; the proofs of which, to a certain extent, have been already laid before you, in the copies of the original documents accompanying my former communications. The Spanish Governors, being near observers of these transactions, were fully enabled to judge of the facts. It is from their correspondence alone that I can form an opinion on these points, while at the same time I feel every disposition to respect the decisions of your Government.

I admit, with you, sir, the imperious necessity which induced the two high contracting parties, in the treaty of 27th October, 1795, to stipulate the agreement contained in the seventh article, which imposes on them, reciprocally, the obligation of restraining, by force if necessary, the Indians inhabiting within the territories of Spain and of the United States from committing hostilities upon American citizens or Spanish subjects. But this stipulation could only be fulfilled upon the most satisfactory proofs of an existing necessity. It would have been an act of injustice and cruelty in Spain, had she drawn the sword to chastise the Indians living under her protection, without knowing what offences they had committed, and fully ascertaining their unquestionable certainty.

In the second place, "that, during the confusion of the late war between the United States and Great Britain, the Governor of Pensacola was called upon, by letter from General Jackson,

to interpose by force, and break up a stronghold which the savages and a horde of fugitive slaves had possessed themselves of in the territory of Florida; that the Governor acknowledged the obligation, but pleaded an incompetency of force; that the orders and competent force which he had solicited from the Governor General of Cuba were never furnished; and that the United States were finally compelled to accomplish its destruction by its own force."

I am not thoroughly acquainted with all the circumstances of this affair; but what I perfectly well know is, that the application should have been made to his superior, or to the Spanish Government through my channel, or through that of the Minister of the United States at Madrid, if the importance of the case required it, or if the Governor of Pensacola declined dislodging this assemblage of savages and slaves. This affair, however, having then come to an issue, cannot now be considered as a ground to justify the recent outrages of General Jackson in Florida, because the fort has long since been destroyed; and whatever may have been the individual omission or failure of the Governor of Florida, the proper recourse was to his Government, to punish him if he deserved it, or to obtain a suitable reparation for the injury complained of.

*Thirdly.* "That, at an early period of his operations, General Jackson had given full notice of their object to the Governor of Pensacola, warning him that every attempt on his part to succor the Indians, or prevent the passage of provisions for the American troops, would be viewed as acts of hostility; and that, in defiance of this admonition, the Governor of Pensacola did both give succor to the Indians, and delay the passage of the provisions to the American army." Strange, indeed, must it appear to the whole world that General Jackson should arrogate to himself the authority of issuing orders and imposing restrictions on the Governor of Pensacola, when he should have confined himself to the communication of positive facts and unquestionable proofs of the offences committed by the Indians, and to a request of the co-operation of the Governor for the punishment and reparation of the injury. The Spanish Governor, uninfluenced, however, by this dictatorial summons, proceeded, by every means in his power, to carry into effect the demands of the General. But the assertion of his having given succor to the Indians, and delayed the passage of provisions for the American troops in the Escambia, is wholly without foundation; the very reverse is proved by the official correspondence transmitted to me; and, in fact, such an assertion, lightly made, and unsupported by proof, is an additional insult to the person and public character of the Governor of West Florida, and a striking evidence of the animosity of the American commander. The Nos. 1, 2, 3, of the enclosed correspondence, evince extraordinary deference for the United States, and condescension for the General.

*Fourthly.* "That the Governor of Pensacola has caused it to be directly reported to the Ameri-

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can General that Fort St. Mark had been threatened by the Indians and negroes, and expressed serious apprehensions, from the weakness of the garrison and defenceless state of the work, for its safety; and that this information was confirmed to the American general from other sources upon which he could rely." The Governor of Pensacola is wholly silent in his correspondence on the state of the fort; and, besides, it is a well-known fact, that neither that Spanish fort, nor any other in Florida, was ever attacked by the Indians and negroes alluded to.

*Fifthly.* "That, upon his entering the fort, unequivocal evidence was evinced of the duplicity and unfriendly feeling of the commandant—evidence demonstrating, beyond the power of denial, that he had made himself, by every act in his power, a partner and accomplice of the hostile Indians, and of their foreign instigators." It is important that a charge of such a nature should be fully substantiated; and I, therefore, must request of you, sir, to have the goodness to transmit to me the documents in support of it. I repeat that, in such a case, the proper course was an application to the superior of that commandant that he might be tried according to law, and on the exhibition of the testimony and documents produced against him.

*Sixthly.* "That the same spirit of hostility to the United States was discovered by the Governor of Pensacola himself, by his refusal to permit, unless by the payment of exorbitant duties, the passage of provisions to the American army; by the reception and succors given to the Indians at various times; and, finally, by a letter which he sent to the American General, denouncing his entry into Florida as an aggression against Spain, and threatening, unless he should immediately withdraw from it, and should he continue what he thus styled aggressions, that he would repel force by force." I am wholly at a loss to comprehend how these expressions of the Governor of Pensacola can be deemed censurable. The passage of provisions or foreign troops through the territory and waters of the Floridas was strictly forbidden by the Spanish Government. The Governor of Pensacola had no authority to dispense with this regulation in any case whatever; and he, therefore, gave a proof of extreme condescension in favor of the American army, in permitting, on his own responsibility, the passage of the provisions, as appears by the documents above referred to, Nos. 1, 2, 3. The demand of payment of the duties fixed by the regulations and tariffs of the Spanish Government was an obligation impossible for him to evade without a criminal breach of duty. It is the first instance I have seen of a charge brought against an officer for the faithful discharge of his duty. In all events, the moment that the Governor of Pensacola signified to General Jackson his want of authority to grant his request, that General, or his Government, should have asked it of the Government of His Catholic Majesty.

Such are the grounds upon which General Jackson rests his justification, and which your

Government appears to consider sufficient to exonerate him from any charge, and all responsibility to the United States, by reason of the invasion of West Florida; and these grounds, you add, are still further strengthened in favor of the General by the following facts: 1st. That "the charges alleged by General Jackson against the commandant of St. Mark's are not known even to have been denied." It would, indeed, have been difficult for him to have contradicted them without having first acquired a thorough knowledge of, and then minutely investigated, all the details connected with them. Nothing like this was allowed by the operations of General Jackson, who, in a moment, fell, like an impetuous conqueror, upon the chief place and military posts of Florida with his whole force, supported by a train of field and battering artillery—a train which can hardly have been thought necessary for battering the cabins of miserable Indians. 2d. That "the Governor of Pensacola assured General Jackson that the information received by him of the number of Indians who had been received and harbored at Pensacola was erroneous; and, notwithstanding this assertion, a large body of them were overtaken, surprised, and defeated by the forces of the United States, within one mile of Pensacola, within ten days after the time stated, in his letter to the Governor, of this assemblage of Indians at that place; nor was it until after that event that the Governor issued his proclamation for refusing them supplies, and gave them the advice under which eighty-seven of them surrendered themselves to the American officer; and that since their surrender there had been only two Indians in Pensacola, and those in jail, which was incorrect, as, besides the Alabama chief included in the capitulation, one wounded Indian was found in the fort of Barancas; and, further, that Holmes, a noted Red Stick chief, left Pensacola but the day before the American troops took possession, and a number of other Indians were seen, about the same time, within a few miles of Pensacola, and succeeded, with the aid of Spanish officers, in eluding the pursuit of the American troops." It seems to me that the bare recital of these trifling circumstances is sufficient to enable any one to judge of their utter insignificance. Let us suppose there were two or three, four or five, or several more Indians in Pensacola, or in any other Spanish post; and what is there remarkable or improper in that? What law or principle is there prohibiting the Governor of Pensacola from communicating with the Indians, and allowing them to bring in the usual supplies? The duty of the Spanish Governor was confined solely to withholding aid and assistance to the hostile Indians, and exhorting them all to preserve peace and abstain from any acts of injury or violence to the citizens of the United States. This duty he has religiously discharged; and nothing has yet been advanced that proves the contrary. Is it a crime to permit a wounded Indian, a wretched fugitive, disarmed and defenceless, to take refuge under the protection of Spain, and avoid the fate impending over his whole

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nation? Is it a crime to show humanity to such unfortunates, and not deliver them up to punishment? A different conduct ought surely to be considered a crime and an eternal disgrace.

And here I would not be understood as denying the cruelties exercised by the savages, or the horrors committed by them on the citizens of this Republic. I view with horror every act of barbarity and blind fury. Be pleased, however, sir, to compare the evils complained of with those which have, and do daily flow from those successive shoals of desperate adventurers, freebooters, assassins, and banditti, which have so long thronged from the American territory towards the adjoining provinces of the Spanish monarchy, and with the frightful swarms of corsairs, and pirates, who, after arming and equipping in the ports of this Republic, daily sally forth to infest the seas, destroy the Spanish commerce, and rifle every defenceless vessel they meet. To yourself and to the whole world it is notorious what deplorable atrocities have been committed by these barbarous and bloody wretches. I leave it to you to decide whether there can be any comparison between these excesses and those alluded to by General Jackson in his proclamation.

In fine, the very reasons assigned by General Jackson in justification of his conduct serve only to enhance its enormity. How can personal piques or disputes between subordinate officers possibly justify the invasion of a province, with all the apparatus and the fury of war, in the midst of peace? How can they justify the effusion of blood, the bombardment and capture of its fortresses and strongholds? How! is General Jackson an independent sovereign, or is the commandant of St. Mark's, or the Governor of Pensacola? Should not every altercation, disagreement, or complaint between these officers have been submitted to their respective Governments, by them to be decided? Most assuredly they should; and I cannot refrain from repeating that outrages of such a nature admit neither excuse or palliation. I am fully persuaded that the President, as you assure me, gave General Jackson no orders or instructions to commit such acts of violence and injustice, nor to depart from the course which the President, in his Message to Congress of 24th March last, announced it was his intention to pursue. It therefore follows, by a necessary inference, that General Jackson acted upon the impulse of his own mind, and took upon himself, as you say, the whole responsibility.

It is very satisfactory to me to be informed by you that the President agrees to restore Pensacola to the possession of any person duly authorized on the part of Spain to receive it; also, the fort of St. Mark, as soon as a Spanish force sufficiently strong to hold it against the attack of the hostile Indians shall make its appearance for the same purpose. I shall lose no time in transmitting the answer of the President to my Government, in order that, on taking it into consideration in relation to that point, it may give such orders as may be required by the case. But with a view to prevent any difficulty in the execution of this

just measure adopted by your Government, I have to request you, and, through your ministry, the President, to give the necessary orders to the American commandant and officers now holding that province to deliver it up to the Spanish Governor, officers, and troops, who may be duly authorized to receive possession of it. At the same time, I persuade myself that the President, being disposed to take this first step in making satisfaction to Spain, will not refuse such others as will make that satisfaction complete and effective. I therefore renew, in the name of the King, my master, my instant requests and reclamations of due reparation for all the losses and injuries sustained by the Crown and subjects of His Majesty in consequence of the proceedings of the American General and the troops under his command in Florida; and, moreover, of his lawful punishment, with that of any other officer who may appear to be responsible by his participation in the acts complained of.

On the other hand, I assure you, sir, that whatever complaint the Government of the United States may have against the Governor of Pensacola, the commandant of St. Mark's, or against any other Spanish military or civil officer, it will be promptly attended to by His Catholic Majesty's Government, and orders issued for any inquiry into their conduct; and should it satisfactorily appear to be reprehensible, they shall be punished with all the severity of the law.

In concluding this note, I forbear to repeat to you assurances of the sincere and strong desire of His Catholic Majesty to see all pending differences speedily brought to an amicable conclusion. You are aware that, in April last, I despatched a courier to my Government, with full information on the state of the negotiation, submitting, agreeably to what you stated to me, and with a view of expediting the proceeding, its final arrangement by the Ministry of the King, my master, and the Minister of the United States at Madrid. On the first official notice of the result of that proposition, although it has not yet had the desired effect, I have no doubt that we shall be able to come to an understanding by means of my new instructions, and agree on the basis of a treaty mutually satisfactory.

In the mean time, I confine myself to offering you the renewed assurance of my constant respect, and I pray God to preserve you many years.

LUIS DE ONIS.

No. 1.

*Copy of a note of the Governor of West Florida to his Excellency Andrew Jackson.*

PENSACOLA, April 15, 1818.

MOST EXCELLENT SIR: Your excellency's letter of the 25th of last month has been delivered to me, also that of the 16th, in answer to mine of the 16th of February preceding. I now have the honor to acknowledge the receipt of both, and to reply to the former.

In the month of May last, yielding to a spirit of conciliation, I gave permission to the schooner

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Victory, from New Orleans, to pass up the Escambia to the American fort with a cargo of provisions; prompted by the same sentiment, I gave a similar permission in January last to Captain Call, of the schooner *Italiana*, to proceed to the same place; and subsequently, pursuing the same friendly and conciliatory feeling, I allowed Lieutenant Eddy, belonging to the garrison of the fort above alluded to, who had been commissioned for that purpose by Major Youngs, the commandant, to supply himself here with sixty barrels of provisions. The cargo of the schooner *Italiana* being still deposited here, I conceive that the introduction of the further supply requested by your excellency is not necessary at present. Notwithstanding this, as I infer from your excellency's letter that the said provisions are now on the way, and am disposed to grant the same indulgence as heretofore, while it is not less my duty to enforce the established regulations and restrictions, which require that the supplies should be consigned to a Spanish trading-house, which will undertake to forward them and secure the payment of the royal import and export duties, I will give permission for them to pass in like manner as the first; it being, however well understood that, neither now nor hereafter, the United States can pretend to or acquire any right in consequence of these indulgences, which are perfectly gratuitous, and granted solely in consequence of existing circumstances, which, as your excellency states to me, prevent the arrival of supplies to the said Fort Crawford, through any other channel. In addition, you are pleased to remark that you are not disposed to enter into any discussion with me on the subject of the right which may be claimed by the United States to the free navigation of the Escambia.

To a discussion of this nature I am no less averse than your excellency; because it is one not within my province, and because it is my duty, as a subordinate officer, to conform to the orders of my superior; therefore, until I receive orders to the contrary, I am bound, in reference to this point, strictly to adhere to the existing treaties between the United States and Spain. On referring to the last treaty of amity, limits, and navigation, I perceive nothing that stipulates the free navigation of the river alluded to; but, on the contrary, that the sovereignty of the King, my master, in and over all the territories, coasts, rivers, ports, and bays, situate to the south of the thirty-first degree of north latitude, is solemnly and explicitly acknowledged by the United States; and if, in consideration of the present extraordinary circumstances, further momentary concessions are required, I request your excellency to have the goodness to apply for that purpose, in future, to the authority on whom they may depend, as I am wholly unauthorized in this matter.

God preserve you many years.

JOSE MAZOT.

His Exc'y Gen. ANDREW JACKSON.

True copies of the documents deposited in this

command, at Pensacola, May 2, 1818, in the absence of the secretary, (by indisposition.)

B. DUBREUIL.

No. 2.

*The Commandant of West Florida to Major Youngs, encamped on the banks of the Escambia.*

PENSACOLA, April 27, 1818.

SIR: Your letters of the 27th instant, dated Camp on the Escambia and Fort Crawford, enclosing a proclamation, were this day delivered to me at 3 o'clock P. M. by an artificer, (a man of color,) whose immediate return does not allow me at present to reply particularly to them; and I shall only state that the few peaceful Indians who were at this place and in its neighborhood left it on the 26th, and at daybreak several of them were murdered by the troops of the United States, and among them some women and children. As I am unable to account for this act, and the violation resulting from it, I have to inform you that I shall transmit an account of the whole transaction to my superior; and I hope that in the meantime you will not permit any further hostilities to be committed on any pretence in this territory; and, in case the Indians give any reason for complaint, that you will inform me of it, that I may chastise them for it, as far as it depends on my authority.

If there be Indians still remaining in this territory, I will have them sought for, and communicate your letter to them, and advise you of the result. I do assure you on my word that your statement of the aggressions committed by the Indians is the first intelligence I have had of it, and that when I agreed to the passage of the escort of which you speak, those Indians of whom Lieutenant Eddy was apprehensive were the only ones pointed out to me.

I must repeat to you that all my wishes and efforts are directed to preserving the peace happily subsisting between our Governments, and relying on your friendly sentiments towards me, I offer you in return the assurances of mine.

God preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS.

*The same to the same.*

PENSACOLA, April 30, 1818.

SIR: In consequence of the request contained in your letter of the 27th instant, I assembled the principal chiefs of the Upper Creek towns of Colome, Canaan, Corvalle, and Forsythe, and communicated its contents to them; they all replied that they had long been very unhappy and miserable, without shelter or country; but that, at last, by the advice of a good friend, they had found one; that they all cheerfully adopted it, and were very grateful for the offers you had made them. These Indians amount to about eighty-seven, including women and children. I have settled that they should divide into two companies, and they will set out as soon as your

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answer is received, which they think it prudent to keep, as you will, when informed of their acceptance of your offer, be enabled to give proper orders for their safety on their journey, and their avoiding any unpleasant rencontre with the Choc-taws, who, if not duly informed of it, might attack them; in which case, the measures taken for the peaceful arrangements that we both have so much at heart would be defeated.

Opahi-hola, an Alabamian chief, on account of his age and infirmities, will remain here for the present with his family. I have given orders for his relief, and pledge myself for his good behavior.

You will always find me ready to unite with you in such measures as may be beneficial to our respective countries, and are conformable to existing treaties. I renew the assurances of my respect, and pray God to preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS.

No. 3.

*Copy of a letter from the Commandant of West Florida to his Excellency Andrew Jackson.*

PENSACOLA, May 18, 1818.

MOST EXCELLENT SIR: On the 10th instant I received your letter of the 27th of April last, informing me that on board a small schooner detached from this port for Appalache there were found several articles of clothing, such as are used by the United States troops, and which you suppose were taken in the boat in which Lieutenant Eddy was unfortunately cut off, together with his escort. You inquire of me how I became possessed of those articles of clothing, and you proceed to state that you regret the necessity which compels you to inform me that, from written and other proofs obtained at St. Johns, the quantity of American cattle found at St. Marks, and the active communication kept up between the latter place and the hostile Indians, there appears sufficient ground to believe that they were encouraged and excited to this savage warfare against the United States by the Spanish officers. You add that there exist positive proofs that the Indians were supplied with ammunition by the late commandant of St. Marks; and you conclude by declaring that shelter and protection have been given at this place to the persons and property of the Indians who are in hostility with the United States, and have fled from the American territory; that these facts, and the refusal to allow the passage of provisions for the supply of your troops, fully evince the unjust conduct of the Spanish agent in the Floridas.

To these several charges I shall reply in their order, frankly, unreservedly, and unequivocally. The first relates to the articles of clothing found on board the schooner Maria, and detained on the presumption of their being the property of the United States. A part of these, as is proved by the copy No. 1, was purchased at New Orleans in May last; a part came from Havana and

a part was bought here; all which being fully substantiated, the charge is consequently disproved, and your inquiry satisfactorily answered. The second is more serious, and refers to the conduct of the commandant of St. Marks, at a recent period. I immediately demanded of him an account of his proceedings; his report of which is enclosed under the No. 2. But as I am desirous that you would bring forward unquestionable proof of the malconduct of that officer, I have to request you to furnish me with it, in order that, if his misconduct be established, he may receive condign punishment; hereby assuring your excellency, with that sincerity that belongs to me, that in such an event he has acted entirely contrary to his instructions; and that on receiving the evidence required he shall be tried by a court martial, and punished in an exemplary manner, according to the merits of the case. Your sense of equity will, however, satisfy you that the Spanish Government cannot be held responsible for the misconduct of its agents while it does not support them in it, nor tolerate their errors when proved. Your subsequent complaints are directed personally and pointedly against me, and relate to the shelter and protection alleged to have been afforded to the persons and property of fugitive Indians, and to the passage of provisions up the Escambia. The best mode of giving a satisfactory answer to these charges will be to offer you a brief and faithful statement of facts. With respect to the Indians, you have assuredly not been correctly informed; for, although some few remained permanently here, chiefly consisting of women and children employed in supplying the inhabitants with fish, fuel, and other trifling articles, and had been living here long before the present war with the Seminoles, it is a fact that, when I sent round to assemble them for the purpose of communicating to them the proposal of Major Youngs, their whole number amounted but to eighty-seven; and surely the small proportion of men among them unarmed, miserable, and defenceless, could not be considered as objects of hostility to the United States; a proof of which was shown in the continual passage of American citizens to this place, travelling unarmed and alone, without a single instance of accident happening either to their persons or property. In regard to the passage of provisions up the Escambia, so far from suspending it, I facilitated it, as far as depended on me, even to committing myself; since, as a subordinate officer, I could not becomingly allow a proceeding which was not fully authorized. I therefore, in consideration of circumstances, took that responsibility upon myself, as I stated to your excellency in my letter of the 15th ultimo, by Major Perault, to which I beg your reference. But, with a view to the benefit of this place, by means of a free intercourse with the interior, I hereby declare that in future the merchants and traders belonging to it shall pass freely from hence to Fort Crawford, and other places on the frontier, and transport all necessary supplies, either by land or water; by which means it is to be expected

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they will be abundantly provided, and your excellency entirely satisfied.

In offering you these explanations and details, I flatter myself I have given so full and satisfactory an answer to your excellency's letter as to leave no doubt of the sincerity of my intentions, and at the same time to have presented a certain pledge that it is my earnest wish to contribute, by every means in my power, to the maintenance of the good understanding happily subsisting between our two Governments. God preserve you many years.

JOSE MAZOT.

His Exc'y ANDREW JACKSON.

Pensacola, 31st May, 1818. A true copy of the original deposited in the office of the secretary of the government of this Province, under my charge.

CARLOS REGGIO.

*The Secretary of State to Don Louis de Onis.*

DEPARTMENT OF STATE,

WASHINGTON, August 24, 1818.

SIR: I have received your letters of the 27th ultimo and of the 5th instant, with their respective enclosures, all of which have been laid before the President. With regard to the two vessels alleged to have been equipped at New York for the purpose of cruising under the flag of Buenos Ayres against Spanish subjects, the result of the examination which has taken place before a judge of the Supreme Court of the United States has doubtless convinced you that no prosecution commenced by the Government of the United States against the persons charged with a violation of their laws and their neutrality could have been necessary or useful to you, no transgression of the law having been proved against them.

It would be equally superfluous and unreasonable to pursue the discussion with you relative to the proceedings of the American Commander-in-Chief in entering Florida, and his conduct there, and to the misconduct of the Governor of Pensacola and of the commandant of St. Marks in aiding and abetting the savage enemies of the United States, whom Spain had, by solemn treaty, bound herself to restrain by force from committing hostilities against them. But you will permit me to observe that the obligation of Spain was positive and unqualified, and that an attempt to evade its force by the allegation that Spain could not carry it into effect until she knew what hostilities they had committed, and the possible causes of or provocations to them, would be equally unwarranted by the express terms of the article, and by the intentions of the contracting parties to the treaty. The stipulation of Spain was, not to punish her Indians for murders committed upon the aged and the infirm, the women and children of the United States, but to restrain them by force from committing them; and the insinuation that the Indians themselves had been provoked to such atrocious acts would be as disingenuous on the part of Spain to escape from

the sacred duties of her compact as it would be unfounded in point of fact.

The letter from General Jackson to the Governor of Pensacola, a copy of which was transmitted to you in mine of the 23d ultimo, and its answer, were written, not as you allege, at the turbulent period of the late war between the United States and Great Britain, but, as their dates will show, more than a year after the conclusion of the peace. The fort had been built upon Spanish territory, under the sufferance of Spanish authorities, by British officers, during the war, for annoyance against the United States. After the peace it remained the stronghold of fugitive negro and Indian robbers and murderers, which the Governor of Pensacola, when summoned by General Jackson to destroy, alleged his inability to do it without reinforcement and further orders, which, as the event proved, were never received.

I have the honor to inform you that orders have already been forwarded to the commanding officers at Pensacola and St. Marks to deliver up those places, conformably to the notice in my letter to you of the 23d ultimo, to the former Governor of Pensacola and commandant of St. Marks, respectively, or to any person duly authorized from you or from the Governor General of the Havana to receive them.

I am further instructed by the President to assure you of the satisfaction with which he has seen, in the last paragraph of your letter, your expectation of being speedily enabled to make proposals containing the basis of a treaty which may adjust, to mutual satisfaction, all the existing differences between our two nations, and his earnest hope that this expectation, in the fulfilment of which this Government have confided, and adopted measures corresponding with it, may be realized at an early day.

I have the honor to be, with high consideration, sir, your very humble and obedient servant,  
JOHN QUINCY ADAMS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, September 11, 1818.

SIR: I have received your official note of the 24th of August last, in reply to mine of the 5th of that month and 27th of July preceding; and I coincide with you in opinion that it is superfluous to continue the discussion on the conduct of the American General in the invasion of Florida, since the simple knowledge of acts of this description and notoriety sufficiently indicates that justice which I am persuaded cannot be disembled in the view of unprejudiced reason.

I shall, therefore, not dwell further on the well-founded arguments and documents I have produced in my notes on this subject; but, merely referring to them, I have to insist on, and demand of the Government of the United States that most just satisfaction which I have already required of them, in the name of my Sovereign, and is imperiously claimed by the integrity of his monarchy and the honor of his Crown.

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I immediately communicated to my Government the determination which you did me the honor to state to me, that orders had been given to the American commanding officers to deliver up the posts of Pensacola and St. Marks to such Spanish authorities as might be duly appointed to receive them, that it may, on a knowledge of that fact, adopt the measures requisite to the case.

Anxiously desirous to see the basis of a treaty established to the satisfaction of both Governments, I await the result of the negotiation pending, as you know, at Madrid, (information of which must soon be received here,) that we may proceed in conformity to it; and, it being fully evinced that the King, my master, has the most earnest wish to do what may be agreeable to this Republic, even to the diminution of his own interests, as far as is compatible with his honor and dignity, I doubt not that, in one shape or another, we may attain the most equitable mode of effecting a settlement on terms mutually satisfactory.

I reiterate the assurances of my distinguished consideration, and pray God to preserve you many years.

LUIS DE ONIS.

*Extract of a letter from Mr. Erving, Minister Plenipotentiary from the United States in Spain, to Mr. Adams, dated*

MADRID, February 10, 1818.

The King has lately made large grants of land in East Florida to several of his favorites, and I am credibly informed that, within these few days, he has, by a sweeping grant, given all the remainder to the Duke of Alagon, captain of his guards, and the Count of Punon Rostro, one of his chamberlains. This is, perhaps, his mode of preparing for a cheap cession of the territory to the United States.

*Extract of a letter from Mr. Erving to Mr. Adams, Secretary of State, dated*

MADRID, February 26, 1818.

The King has lately made large grants of land in the Floridas to several of his favorite servants. The enclosed papers (A and B) have been furnished to me as extracts from the deeds to the principal grantees—the Duke of Alagon, captain of the body guards, and the Count of Punon Rostro, one of the chamberlains. Mr. Vargas, treasurer of the household, has another grant. In fine, I am led to believe that His Majesty has given away the whole of the lands in that quarter which had not been previously granted.

A.

*To the Duke of Alagon.*

All the uncultivated land not ceded in East Florida, which lies between the banks of the river St. Louisa and that of St. John, as far as the mouths by which they empty themselves into the sea, and the coast of the Gulf of Florida, and the adjacent islands, with the mouth of the river

Hijuelos, in the twenty-sixth degree of latitude, following the left bank up to its source, drawing a line from Lake Macao, and then descending along the road from the river St. John to the Lake Valdes, crossing another line from the extreme north of said lake to the source of the river Amurama, following its right bank as far as its mouth, in the twenty-eighth and twenty-fifth degrees of latitude, and running along the seacoast, with all the adjacent islands, up to the mouth of the river Hijuelos.

B.

*To the Count of Punon Rostro.*

All the uncultivated land not ceded in Florida, comprehended between the river Perdido to the west of the Gulf of Mexico, and the rivers Amurama and St. John, from Popa, until they empty themselves into the sea on the eastern side; by the north, the line of demarcation with the United States; and on the south by the Gulf of Mexico, including the desert islands on the coast.

*Extract of a letter from Mr. Erving to Mr. Adams, dated*

MADRID, April 5, 1818.

In my despatch No. 60, [of February 26,] I mentioned the grants of land in Florida lately made by the King of Spain to several of his courtiers, and enclosed extracts from those in favor of the Duke of Alagon and the Count of Punon Rostro. I have just now obtained a copy of that in favor of Don Pedro de Vargas, treasurer of the household, and it is herewith transmitted. I hope soon to be able to obtain full copies of the grants to Alagon and Punon Rostro.

#### THE KING:

My Governor and Captain General of the island of Cuba and its district, Don Pedro de Vargas, under date of the 25th of January last, manifested to me as follows:

“SIRE: Don Pedro de Vargas, knight of the royal military order of Alcantara, treasurer general of the royal house and patrimony of your Majesty, with the most profound respect, at your royal feet exposes: That there is a quantity of vacant and unpeopled land in the Territory of the Floridas, and desiring that if your Majesty shall deign to reward his passable services, and the proofs which he has given of his loyalty, it may be without the least burden on the public treasury, or in the prejudice of any third person, as may be done at present by some lands of that country, he beseeches your Majesty that, by effect of your sovereign goodness, you would deign to grant to him the property of the land which lies comprised within the following limits: that is to say, from the mouth of the river Perdido, and its bay in the Gulf of Mexico, following the seacoast, and ascending by the bays of Buen Socorro and of Mobile, continuing along the Mobile till it touches the northern line of the United States, and descending by that in a

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right line to the source of the river Perdido, and following the river Mobile in its lower part, and the bay of that name, returning by the seacoast towards the west, comprehending all the creeks, entries, and islands adjacent, which actually belong to Spain, till it reaches the west line of the United States, then, returning by their northern line, comprehending all the waste lands which belong, or may belong to Spain, and which are in dispute or reclamation with the United States, according to the tenor of the treaties; and, also, all the waste land not ceded to any other individual, which is between the river Hijuelos, in East Florida, and the river St. Lucia, drawing a line from the source of one river to the source of the other, and following, by the coast of the Gulf of Mexico, from the mouth of the Hijuelos to the point of Tancha, and, doubling this, by the coast of the Gulf of Florida, to the mouth of the river St. Lucia, with the islands, &c., adjacent."

Considering the contents of this exposition, and attending to the merit of the individual, and his accredited zeal for my royal service, as also to the advantages to result to the State from peopling the said countries, I have thought proper to accede to the favor which he solicits, in as far as it be not opposed to the laws of these my dominions, and I communicated it to my Council of the Indies, for its fulfilment, in a royal order of the 2d of February last. Consequently, I command and charge you, by this my royal scroll, (*cedula*.) that, conforming to the laws which regulate in these affairs, and without prejudice to third persons, you efficaciously aid the execution of the said grant or favor, taking all the measures which may conduce to its due effect, as also to the augmentation of the population, agriculture, and commerce of the aforesaid possessions, giving account, from time to time, of the progress made; for this is my will, and that due notice shall be taken of this *cedula* in the Accountant General's Department of the Indies.

Dated at the Palace, March 10, 1818.

I, THE KING.

It is rubricated by order of our Lord the King:  
ESTEVAN VAREA.

It is rubricated—fees two hundred and forty reals of plate.

[Here follow four signatures.]

To the GOVERNOR and CAPTAIN GENERAL of the island of Cuba and its district, that he may do what is suitable, to the end that the favor granted to Don Pedro de Vargas of various lands situated in the Floridas, and other things therein mentioned, may have effect.

Registered:

[Here follows a signature.]

Taken notice of this in the Department of the Accountant General of the Indies, Madrid, March 13, 1818.

JOSEF DE TEXADA.

It is rubricated: fees gratis.

[Here is another signature.]

*Extract of a letter from Mr. Erving to Mr. Adams, dated*

MADRID, April 26, 1818.

I perceive that Mr. Pizarro would be very glad to terminate it [the negotiation] here. In the meantime, I shall continue to work with him, to the end that his communications to Mr. Onís may be made as favorable as possible to a prompt adjustment of it at Washington. In this view, I asked him yesterday what had been said respecting Florida. He answered vaguely; but I perceived that there was some question of passing it to the United States in compensation for the claims. I therefore begged him to prepare, in his instructions to Mr. Onís, for a difficulty which must certainly arise if any "transaction" of that kind should be proposed; that the claims in question would probably be liquidated by the United States, in such form, by commission or otherwise, as might be most convenient to themselves; but that, finally, they must be paid out of the sale of the lands. Now, the King had lately given all those lands away, (as I had duly informed my Government;) to complete the "transaction," it would, therefore, be absolutely necessary that the whole of those grants should be cancelled. Mr. Pizarro here held me a long discourse about sovereignty, territorial property, &c. I told him that we had no difference of opinion about those distinctions, and the other matter connected with them, but that his error was in supposing we meant to pay for the sovereignty only. We did not estimate that so highly as he imagined. I enlarged very much upon whatever relates to these points, and brought him to consent that these grants might be cancelled, and indemnity given to the grantees in New Spain, or elsewhere. I say "brought him to consent"—I mean that he said enough to convince me that there will be no difficulty on this head. I am not so certain that I have induced him to send, by this courier, such instructions on it to Mr. Onís as may render another reference to his Government unnecessary; but I propose to see him again to-morrow, and to re-urge the matter.

*Extract of a letter from the same to the same, dated*

MADRID, May 14, 1818.

In my last private letter (which was dated April 26) I related to you what passed between Mr. Pizarro and myself upon the subject of the grants of lands in the Floridas, lately made by the King, and I mentioned that I should see him the day following, and endeavor to press my opinion on that point in such way as, if possible, to obtain that he might in advance instruct Mr. Onís in conformity to it. I saw him on the 27th, as I proposed, before the departure of his courier; whether I produced the desired effect, or not, I cannot positively say; but, immediately after, he wrote to the Council of the Indies, in consequence of which the council sent orders to the Duke of Alagon and the Count de Punon Rosorio, directing them not to make sales of the lands



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granted to them; this fact, which I had received through a private channel, I ascertained yesterday in conversation with Mr. Pizarro. I cannot find that the council has written to the other grantee, Vargas, but Mr. Pizarro said that it should have done so. Be that as it may, all sales made by the grantees are, *ab initio*, void, by the laws of the Indies; there are obligations, also, of a very onerous kind, imposed by those laws on all grantees, calculated, in fine, to produce the objects which such grants have in view, viz. the population and cultivation of the territory—obligations which grantees of large tracts (under a prohibition to make sale) cannot possibly fulfil; least of all such grantees as these, who, besides not having a cent, are overwhelmed with debt.

*Extract of a letter from the same to the same, dated*  
MADRID, June 12, 1818.

He [Mr. Pizarro] then entered into the principal matters in question, and, first, spoke of the limits on the side of Florida. He concluded this subject by saying that though the King, with a desire to accommodate himself to the views of the United States, had concluded to make the cession, and to make it as valuable as possible to the United States, as I had seen in the promptitude with which he had acted on my suggestion, and given orders to the Council of Indies relative to the late grants, (as particularly communicated to you in my private letters of May 14,) yet His Majesty was fully aware that the value of the public lands in the territory to be ceded would be infinitely beyond what the United States could demand under the head of indemnities; hence, it was reasonable to expect that the difference should be made up to him by concessions on the other side.

*Don Jose Pizarro to Mr. Erving.*

PALACE, July 8, 1818.

The First Secretary of State has the honor of transmitting to the Minister of the United States the copy of a paragraph of a note of the 7th of February, 1803, (and propositions which accompanied it,) to Don Pedro Cevallos; and he avails himself of this occasion to repeat the assurance of his consideration.

*Copy of some paragraphs of a note directed to Don Pedro Cevallos, on the 7th February, 1803, by Mr. Charles Pinckney, Minister of the United States.*

To obtain this, they have authorized me to say that, should His Majesty be now inclined to sell to the United States his possessions on the east side of the Mississippi, or between that and the river Mobile, (agreeably to the propositions enclosed,) the United States will make to His Majesty, and I do now make, in their name, the important offer of guarantying to him and his successors his dominions beyond the Mississippi.

*Propositions on the part of the United States.*

1st. The United States will purchase the pos-  
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sessions of His Catholic Majesty on the east side of the river Mississippi, for which they will pay — dollars.

2d. They will purchase these possessions, for which they will pay — dollars; and, moreover, guaranty to His Majesty and his successors his possessions beyond the Mississippi.

3d. They will purchase the country between the rivers Mississippi and Mobile, belonging to His Catholic Majesty, and also places of deposit near the mouths of the other navigable rivers passing from their territory through either of the Floridas, for which they will pay — dollars, or enter into other obligations which may be thought equivalent to the acquisition.

4th. If neither of these propositions can be acceded to, they will then purchase certain tracts of country on the banks of the Mississippi, and the other rivers passing from their territory into that of His Catholic Majesty, for which they will pay — dollars, or enter into other obligations which may be thought equivalent to the acquisition.

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 9, 1818.

SIR: I have had the honor to receive your excellency's note of yesterday's date, enclosing a paragraph from a note addressed to this Government on the 7th of February, 1803, by Mr. Pinckney, at that time Minister of the United States at this Court, together with certain proposals of the same Minister, to which the paragraph cited refers.

Though I find that these proposals are as explicit in their form as your excellency in conversation stated them to be, yet I also find, as I presumed, that they were not made or renewed by the special mission which treated with Mr. Cevallos in the year 1805, and that they do not affect and cannot receive any application to the great questions now under consideration. They, in fact, offer the United States as guarantee of His Majesty's possessions on the right bank of the Mississippi, in part consideration for cessions which he was to make of the whole of his then possessions, or certain districts of them to the eastward of that river; but posterior to this offer, namely, on the 30th April, 1803, the greater part of the territory thus proposed to be purchased, and the whole thus proposed to be guaranteed, passed into the possession of, and now make part of the United States. Thus the state of possession in that quarter having been changed, the motive to guaranty on one side, and the necessity to receive a guaranty on the other having ceased, all that passed upon the subject heretofore is as though it were obliterated from the records.

The only security which occurs to me as possible to be stipulated, under present circumstances, is that of the thirty leagues desert, which I mentioned in our two last conversations; and, in fact, this kind of material security in transactions between two great nations ought, according to my apprehension, always to have the preference over

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the other kind of stipulations; for, though such stipulations should be most religiously observed, even in the extreme cases wherein, by the universal practice of nations, they are deviated from or altogether dispensed with, yet, in the still greater extremity of war, they cease to be binding, of course, and cannot be renewed but after the war, and then the inducement to renew them may have ceased; whereas the material security of which I speak always remains. War does not cultivate deserts, but it makes them. However, these and other important considerations belonging to the subject will be duly deliberated on by His Majesty's Government. I can only say that, if my suggestion should be adopted, I shall be ready to put it into form, and with that I consider that the only great difficulty to a happy termination of our differences is removed.

I renew to your excellency assurances of my very distinguished consideration.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, July 9, 1818.

SIR: In several late conferences with you I have had the honor to manifest to you the regrets of His Majesty that it had not been possible yet to terminate the discussions depending between the two Governments, as His Majesty flattered himself might be done in consequence of the instructions given to his Minister Plenipotentiary, especially since, on the part of the King, there had not been, nor is there, any objection to carry into effect the arrangement of the indemnities reciprocally claimed by Spaniards and Americans; nor to proceed to the settlement of limits upon grounds conforming to the treaties and to continual and uninterrupted possession; nor for Spain to cede to the United States the two Floridas for a reasonable equivalent exchange in territory to the west of the Mississippi; nor, finally, in case of not being able to come to accord on all the pending questions, and especially those of limits, to refer to the arbitration or mediation of one, two, or more Powers, friends of both parties, without preventing, after the limit which should appear to be just should be settled by such arbitration or mediation, that we should proceed to effect, by means of the same mediation, or without it, if it should accommodate the United States, an exchange of the two Floridas for equivalent territory to the west of the Mississippi.

The King thought of this arbitration as the most certain and prompt mean of terminating the discussion of limits, each party exposing before the arbitrating or mediating Powers the titles or grounds on which it rested its rights and pretensions; and he has not been able to change his opinion on seeing the answer given upon this point by the Secretary of State of the United States to Don Luis de Onís; for, in the proposal made by that Minister Plenipotentiary, by express order of His Majesty, respecting said mediation or arbitration, there has not been, nor is

there, question, as Mr. Adams seems to suppose, of inviting the United States to take part in relations or ramifications belonging to any interests of the European Powers, nor in what he calls the labyrinth of their politics, but merely that one or more impartial Governments, friendly to both parties, should take cognizance of the data of fact and right on which they found respectively the demarcation of limits which each pretends to substantiate; which measure is, in effect, the same as that which the United States adopted in its last treaty with Great Britain for adjustments of a similar kind, there being no other difference between the two cases but in the greater or less importance of the territories in dispute.

In this state of things, and His Majesty animated with the most efficacious desire to employ whatever means are in his power to terminate satisfactorily all and every one of the points in question, I represented to His Majesty that you and I, in our late conferences, had been of opinion that it might contribute to facilitate the arrangement of those points on which, hitherto, both Governments have not been able to come to accord, to carry forthwith into effect that on which they are already agreed; that is, the settlement of the reciprocal indemnities of Americans and Spaniards which were the object of the convention of 1802, for which only was wanting the ratification on the part of Spain, suspended for reasons and by circumstances which are notorious. The King instantly applauded this suggestion of mine and yours, and, desirous of giving to the United States efficient proofs of his desire of an arrangement on all the points, commanded me immediately to draw out a ratification of the said convention of August 11, 1802, to be sent to Don Luis de Onís, to the end that he may present the same, and exchange it for that of the United States; and I have the honor to enclose the adjoining copy for your due information.

The termination of this point, already agreed on, in no respect can embarrass the ulterior progress of the negotiation upon the others; and if Don Luis de Onís, pursuant to his first instructions, or to the explanations which subsequently on two occasions have been given to him, or because the Government of the United States has reduced its demands to terms more compatible with the rights of Spain, shall, on the arrival of said ratification, have already settled this point conjointly with the others, there will not therefore result any kind of embarrassment or contradiction, since the recognition of the reciprocal indemnities between Spaniards and Americans, and the mode of liquidating them, (the only objects comprehended by the convention of 1802,) will always have to enter in the new arrangement which may have been effected or may take place; and only in the manner of paying the debt which shall result from the liquidations made can there be or arise hereafter any altercation, in case the territorial arrangements should be combined with the other indemnifications.

His Majesty hopes that the United States will see in this measure a proof of his friendly dispo-

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sitions, and, if he may flatter himself with others equal and reciprocal on the part of the Government of the United States, he does not doubt that shortly will disappear the difficulties which hitherto have opposed themselves to the desired arrangements. The political, commercial, and territorial interest of the United States and Spain are not opposed to each other; extraneous circumstances, and independent, perhaps, of the will of both Governments, have been able to complicate and embarrass their political relations; a sincere desire to understand each other, and to approximate cordially, each ceding something of that which he supposes that he has a right to exact of the other, may perhaps be the commencement of a new order of things, in which the Government of Spain and that of the United States, far from occupying themselves in disagreeable discussions, will mutually contribute to augment the prosperity and well-being of both nations.

No occupation will be to me more agreeable than that of employing my weak efforts in serving the King, my master, in so interesting an object; and I should not do the justice which I owe to your rights, and conciliatory and friendly dispositions, if I were not persuaded that you will lay the whole before your Government in the same temper.

As Don Jose Martinez, who came from the United States last month with despatches from Don Luis de Onis, is to return thither, I notify you thereof, that you may, if you please, profit of this opportunity to send yours to that country.

I renew to you, &c.

JOSE PIZARRO.

*Copy of the ratification given by His Catholic Majesty to the convention settled on the 11th of August, 1802, between Don Pedro Cevallos, First Secretary of State and Despatch, as Plenipotentiary of Don Carlos IV., and Mr. Charles Pinckney, as Plenipotentiary of the United States of America.*

Whereas, on the 11th day of August, 1802, there was concluded and signed in Madrid, between Don Pedro Cevallos, First Secretary of State of the King, my august father and lord, and Mr. Charles Pinckney, Minister Plenipotentiary of my great and good friends the United States of America, competently authorized thereto by their respective Governments, a convention, which had for its object the reciprocal indemnity for losses, damages, and injuries which had accrued during the war then concluded, in consequence of excesses committed by individuals of both nations against the law of nations or the existing treaty; and no determined time having been fixed for the correspondent ratification, the said convention was ratified by the President of the United States, with consent of the Senate of the same, a year and a half after its conclusion; and on the part of Spain the ratification was further deferred, on account of the desire manifested to regulate at one and the same time, not only the points determined on by the said convention, but also those which had remained

undecided on in the same, and others of a different nature, though of not less importance, which could not take effect on account of posterior occurrences in Spain, which are quite notorious; and I, now considering that in the present circumstances to carry forthwith into pure and due effect the stipulations of the said convention of 11th August, 1802, far from impeding the course and desired termination of the other questions depending between the two Governments, may contribute to facilitate the most prompt and satisfactory arrangement of all of them, and having seen and examined the said convention, which contains seven articles, the form and tenor of which is as follows:

[Here the convention is copied.]

Therefore have concluded to approve and ratify whatever the said convention contains in its seven articles, as in virtue of these presents I do approve and ratify, in the best and most ample form that I can, promising, on the faith and word of a King, to fulfil it and observe it, and to cause it to be fulfilled and observed, wholly, as though I myself had made and signed it. In testimony whereof, I have ordered to be despatched the present, signed with my hand, sealed with my secret seal, and attested by my underwritten Councillor and First Secretary of State and Despatch. Given in Madrid this 9th of July, 1818.

YO, EL REY.

JOSE PIZARRO.

Subscribed:

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 16, 1818.

SIR: It was not till the evening of the 13th instant that I had the honor to receive your excellency's note of the 9th, communicating to me a copy of His Catholic Majesty's ratification of the convention made between the United States and Spain on the 11th August, 1802.

In the late conferences which I have had with you, I have received with great satisfaction the assurances which you have given to me of your sincere desire to terminate, by a general arrangement, all the questions in discussion between our two Governments. I do full justice to the conciliatory dispositions of your excellency, and am persuaded that the pressing importance of such an adjustment has not escaped your enlightened mind; but, however painful may be the disappointment of His Majesty at finding that a favorable conclusion to the negotiations has not resulted from the instructions heretofore sent to Don Luis de Onis, I cannot but remind you that I have not omitted to assure His Majesty's Cabinet, through you, that those instructions would be found to be wholly inadequate to the object. The causes of their failure are so perfectly apparent in the correspondence between the Minister and the Secretary of State of the United States, which, by order of the President, has been laid before Congress, that I may be excused from entering further into the matter.

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I receive with pleasure whatever may contribute to the great object in view; and though the convention of 1802 embraces but a portion of the claims of the United States of the same nature, yet, considering it as a preliminary to a similar adjustment of the whole of such claims, as well as of those for French spoliations specially reserved by it, and trusting that it may, as your excellency hopes, lay a foundation for an amicable settlement of the territorial questions now in discussion, I have lost no time in transmitting a copy of your communication to my Government.

I understand, also, with your excellency, that this ratification can be no obstacle to any general transaction on the whole of the matters in dispute which may be hereafter made, and that it is not to interfere with, but to be made wholly subordinate and subservient to, whatever arrangement Mr. Onís may possibly have entered into with my Government, in pursuance of the instructions which you have lately sent to that Minister.

I desire to avail myself of your obliging offer to transmit my despatches for the United States by Don José Martínez, and request that you will be pleased to inform me when that gentleman will leave Madrid.

I renew to your excellency assurances of my very distinguished consideration.

GEORGE W. ERVING.

*Don José Pizarro to Mr. Erving.*

SACEDON, July 19, 1818.

SIR: In one of our late conferences I had the honor to state to you anew His Majesty's readiness to cede both of the Floridas to the United States, the acquisition of which appeared to be so essential to the growth and prosperity of the American Union, in consideration of a suitable equivalent to be made to His Majesty in a district of territory situated to the westward of the Mississippi. In adverting to the great importance of this cession, I was naturally led to recall to your recollection the contents of different notes addressed by the Minister of the United States, Mr. Charles Pinckney, to His Majesty's Government upon this subject, and particularly of that of the 7th of February, 1803, in which, having earnestly solicited, as he had already done in several preceding notes, the decision of His Majesty to sell to the American Government both Floridas, or at least that part of West Florida lying between the Mississippi and the Mobile, he offered formally, in the name and on the behalf of the United States, not only to pay in money the value of the territory so ceded, but that the United States, in case the said cession should take effect, would further guaranty to the King and his successors his dominions situated beyond the Mississippi. The cession of the two Floridas being one of the objects contemplated in the proposed adjustment, I stated to you that the contingency appeared to have approached, in consideration of which the formal offer had been made

to His Majesty, on the part of the United States, of the guaranty of his dominions situated beyond the Mississippi, or otherwise beyond the western boundary line, to be agreed upon in the final adjustment; the guaranty of which, forming a part of the stipulations of that adjustment, would, in my opinion, be a more effectual means of facilitating the final conclusion of the points depending, not only from its essential importance, but as being the most conclusive evidence of a desire on the part of the United States to preserve and perpetuate a good intelligence with the Government of Spain; and the more agreeable to His Majesty, as being a spontaneous offer of the United States, on whose behalf the proposition was formally made without any previous transaction or request on the part of the Spanish Government.

Upon which you were pleased to state to me that you had no previous knowledge of the said offer of a guaranty being made by your predecessor on behalf of the United States, which you attributed to the dispersion and loss of a considerable part of the archives of the American legation at the time of the invasion of the French. I then offered to furnish you with a copy of the proposals made by Mr. Pinckney, and of that part of the note of 7th February, 1803, which enclosed them and specified their object; which copies were sent to you on the 8th instant.

In your answer of the 9th, you were pleased to acknowledge the receipt of those copies, and at the same time you had the goodness to enter into the subject-matter, not only on the particular point of the proffered guaranty, but you also offered other observations connected with the matters depending between the two Governments, the adjustment of which is so interesting to both countries.

In adverting to your observations, you will permit me to remark that I cannot agree with you so far as to persuade myself that the guaranty offered to His Majesty by the United States, on the 7th of February, 1803, in case of his disposition to sell to them the Floridas, or a part of West Florida, was confined to the guaranty of the left bank of the Mississippi, or of Western Louisiana, as you conceive; and that the United States having acquired the whole of Louisiana by the treaty of the 30th of April, 1803, and the territory offered to be guaranteed having been severed from His Majesty's dominions, the said offer had been annulled, or become extinct of itself, or by the want of its particular object.

If you will take the trouble to examine attentively that offer and the proposals accompanying it, (for which purpose I think it proper to enclose a copy of the whole note of the 7th of February, 1803,) you will distinctly see that what the United States offered to guaranty to His Majesty was not the right bank of the Mississippi, but his dominions situated beyond the Mississippi—his dominions beyond the Mississippi, as expressed in the said note, or his possessions beyond the Mississippi, as expressed in the proposals. A proof that that offer embraced generally all the

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dominions of His Majesty in America, or at least on the continent of North America, is the great importance attached in the same note to the offer, which would have been not only unimportant, but delusive and of no value, if applied to the western bank of the Mississippi; which, independent of its being sufficiently guaranteed by its local position, had been, as was well known in February, 1803, retroceded to France some three years before, and that Mr. Monroe was at Paris, or on his way thither, to acquire it from France, whose sovereignty was already acknowledged by the United States. It is, therefore, evident that the guaranty offered must have been of the territories on the North American continent belonging to His Majesty, to the westward of the Mississippi, and of Louisiana, which no longer belonged to Spain at the time the said offer was made; and nothing so clearly evinces the understanding of the United States and of Mr. Pinckney as the very expressions employed by him in his note to prove the magnitude of the offer. He says: "The immense importance of this offer to the Crown of Spain merits the serious consideration of His Majesty and his Ministers, when we reflect that no other nation can make an offer so highly advantageous. It is one which the United States would never have decided on making, but from a conviction that the territories they now solicit of Spain are indispensably necessary to them."

You can judge how far these expressions were applicable in February, 1803, to the guaranty of the right bank of the Mississippi, which no longer belonged to His Majesty since 1800, which was retroceded to France, and the acquisition of which by the United States was then negotiating at Paris, by Mr. Monroe; and whether their obvious and literal meaning and the magnitude of the object of the guaranty could be applicable to anything other than that of all the possessions of His Majesty in America, or at least of the dominions of Spain on the continent of North America westward of the Mississippi, in exchange for the advantages which the United States contemplated on deriving by the purchase of the two Floridas, or at least that part of West Florida lying between the Mississippi and the Mobile. You cannot, therefore, be surprised that, as His Majesty is now deliberating on a general adjustment with the American Government, including an article by which it is proposed to cede the two Floridas to the United States for a suitable equivalent to the westward of the Mississippi, he should advert to the formal offer of a guaranty made by the United States, for this special purpose, of his dominions and possessions beyond the Mississippi, (that is, beyond the western line stipulated in the same general adjustment,) as the boundary between the American territories and those of His Majesty on the continent of North America.

In consequence of the abovementioned note of Mr. Pinckney, and the communication made to His Majesty's Government by the Government of the United States on the 7th of February, 1803, I deem it necessary further to remark that,

in 1803, nearly three years after His Majesty had ceded back Louisiana to France, and when Mr. Monroe was about concluding the purchase of Louisiana at Paris with the Government of Bonaparte, the American Government admitted, in the most formal manner, that the territory situated between the Mississippi and the Mobile belonged to His Catholic Majesty, and formed a part of West Florida, and not of Louisiana, as it has since been wished to be supposed, His Majesty having been violently deprived of the peaceful possession of the same, during his absence from the kingdom. You will be pleased, sir, to recollect that while Mr. Monroe was negotiating the purchase of Louisiana at Paris, in 1803, Mr. Pinckney at Madrid solemnly offered the King of Spain the guaranty of his dominions beyond the Mississippi, in case His Majesty would agree to sell to the United States at least the territory lying between the Mississippi and the Mobile belonging to His Catholic Majesty—they will purchase the country between the rivers Mississippi and Mobile belonging to His Catholic Majesty. It is impossible more explicitly to acknowledge the sovereignty of His Majesty over that territory, in addition to the acknowledgment implied by the very act of applying to the King for the purchase of it, since no one purchases but of the owner of the object wished to be purchased. If the territory in question had belonged to France as an integral part of Louisiana, would it not have been more natural that Mr. Monroe should have negotiated the purchase of it at Paris, where he then was, than that Mr. Pinckney should have solicited it at Madrid at the same time? His Majesty, therefore, taking into consideration the important fact that his right of sovereignty to the said territory remains unimpaired, notwithstanding his being dispossessed of the same under well-known circumstances, he cannot omit to declare, on all occasions, that it never has been nor will be his intention to relinquish his claim to his rights in that quarter, while he is at the same time willing, by means of a suitable arrangement in the proposed adjustment, or for a satisfactory equivalent, to cede the said territory, together with the rest of the Floridas, to the United States, as well from a desire to meet their wishes, as from a conviction of its importance to the American Government, as was formerly stated in the strongest terms by Mr. Pinckney in his note just referred to.

You are pleased to point out in your note, as a mode for settling the question of boundaries more certain than that of any guaranty, the establishment of a desert of thirty leagues between the frontier of Louisiana and that of the Spanish possessions. Although His Majesty has a due respect for the good faith and strict punctuality of the American Government, yet he does not perceive any security preferable to the guaranty, nor that there would be any difficulty in connecting the one with the other; and, with a view to avoid disagreements on the frontiers, in stipulating the establishment of such a desert, provided both Governments could agree on the requisite

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measures for preventing this intermediary desert from being converted into a rallying point for adventurers and banditti, where they might exercise their pernicious activity in disturbing the peace of His Majesty's dominions as well as that of the United States. But the principal difficulty still subsists, namely: that although the establishment of this desert might be considered expedient, yet we may not agree on the exact line of division, keeping in view the rights of each party to the territory west of the Mississippi, and to that which ought to afford to His Majesty in that quarter an equivalent for the two Floridas, which are proposed to be ceded to the United States in consideration of such equivalent.

If I rightly comprehend your verbal communications relative to the establishment of this intermediary desert, I persuade myself that the understanding is, that the thirty leagues intended to be comprehended in it will be fixed to the eastward of the bay of St. Bernard; and, under the impression that in your note of the 9th instant you offer to enter into official explanations upon these subjects, I invite you, in the name of union and good understanding, to be pleased to present them to me; since, although I consider the communications which you had the goodness to make to me in your abovementioned note as important, I hitherto conceive them to be only verbal communications resulting from the intimation you were pleased to give me. I therefore hope that you will be so good as to present its contents in a more formal shape, in the expectation that the employment of your talents and good wishes, combined with my earnest endeavors, may finally terminate these painful disputes on principles mutually honorable and satisfactory.

I avail myself of this occasion to renew to you the assurances of my very distinguished consideration, and I pray God to preserve you many years.

JOSE PIZARRO.

*Extract of a letter from Mr. Erving to Don Jose Pizarro, dated*

MADRID, July 22, 1818.

The convention had scarcely been ratified, when I was alarmed by information, which I received from a good source, that the King had rescinded the prohibition placed on the late grantees of land in Florida, as communicated to you by my private letter of May 14. On this occasion I wrote a confidential note to Mr. Pizarro, pointing out the evil to result from such a procedure. He replied to me in a way to tranquillize me, and to confirm my opinion of his good faith. Copies of that correspondence are herewith enclosed.

*Mr. Erving to Mr. Pizarro.—Private.*

MADRID, July 18, 1818.

Your excellency will recollect that Messrs. Alagon, Punon Rostro, and Vargas, were placed by an office from the Department of Indies under

certain prohibitions relative to the land given to them by the King. Those prohibitions were considered by you and by me as annulling the grants; on the importance of this measure we are already agreed. Now I am informed that Mr. Vargas has received another office from the same department, (Indies,) by which office the difficulty with regard to him is removed; that is, he is actually free to sell the lands in question, or to profit of them, (always in conformity to the laws,) as may best suit them. I know not whether Messrs. Alagon and Punon Rostro have received similar offices; it is to be presumed. This news alarms me, because I foresee that this transaction will throw new difficulties in the way of the negotiation at Washington. It is in vain to expect that we shall arrive at a state of harmony without a transaction which shall embrace all the points in discussion. The cession of Florida must make necessarily an article in this transaction; and it is quite certain that the United States in such case cannot receive Florida as indemnity for its reclamations if all the cessions to individuals since the date of the convention (1802) are not annulled. According to a statement which I have just received through an indirect channel from Philadelphia, these reclamations may amount to the enormous sum of twenty-five millions of piastres.

The office written to Mr. Vargas is, I am persuaded, unknown to you, and cannot have resulted from our late accord relative to the convention; but your excellency will instantly perceive that it will take that character or appearance, and do infinite mischief. I have already informed my Government of what has passed between your excellency and me relative to the affair of Messrs. Alagon and others. Ought I at present to think that everything is changed since the ratification? I cannot too much lament the results. I yet hope that I may have been badly informed relative to the fact in question, but I have my information from a person who is interested with Vargas, one to whom he had ceded a portion of his interest in the land, before he received the first office. Be it as it may, knowing your excellency is in good faith, and that the affair is worthy of your attention, I have thought it my duty to expose it to you.

Yours, with much respect and esteem,  
GEORGE W. ERVING.

*Reply of Mr. Pizarro.*

SACEDON, July 19, 1818.

SIR: I have just received your esteemed letter which you addressed to me under yesterday's date, communicating to me your apprehensions respecting the alienation of the lands in Florida granted to several individuals. I repeat to you all that I have said on this subject; consequently, you may be tranquil, and I flatter myself that nothing will happen which can injure the negotiations with the Government of the United States, which ought to have been persuaded, long since, of the sincerity which directs the march

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and policy of the Spanish Government, and of its earnest desire of a happy termination of all the points in discussion, by means of a friendly arrangement. I renew to you, &c.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 24, 1818.

SIR: I had the honor to receive yesterday your excellency's note of the 19th instant, replying to mine of the 9th instant, which contains some remarks upon the proposals made to the Spanish Government by Mr. Pinckney, on the 7th February, 1803, and transmitted to me by your note of the 8th instant.

I declare to your excellency that, after the best consideration which I was able to give to those proposals, not having the archives of the legation to refer to, and correct my judgment whenever it might err, I was compelled to conclude that Mr. Pinckney was at that time uninformed of the retrocession of Louisiana to France, which had been previously made by Spain. On this hypothesis, I wrote to you on the 9th instant, and it will explain whatever may appear to you incongruous in that note. It was not possible for me otherwise to understand the offer made by Mr. Pinckney, because it was not possible to suppose that he had been authorized by the American Government, or that it had ever entered into his own imagination, to guaranty the possessions of His Majesty to the westward of Louisiana on both American continents, or even as far down as the isthmus of Panama. Besides that, such a guaranty was beyond the power of the United States, and therefore not worth the acceptance of Spain. He meant then what was within the reach and competency of the United States—a guaranty of that part of Louisiana which is on the right bank of the Mississippi. This is made still more evident by the words he used—"beyond the Mississippi;" for in the other supposition, and had he been aware of the transfer of Louisiana to France, he would have said "beyond Louisiana." Again, is it to be supposed that he could be treating for the purchase of territory on the left bank of the Mississippi, within the limits of Louisiana, when he knew that the whole province had passed into the hands of France? For, whatever claims Spain may yet make to that territory, it could not but be known to Mr. Pinckney that it was in fact a part of Louisiana. The conclusion which I have made is still further and more particularly forced upon me by Mr. Pinckney's fourth proposal, which is thus:

4th. "If neither of these propositions can be acceded to, they will then purchase certain tracts of country on the *banks* of the Mississippi, and the *other rivers* passing from their territory to that of His Catholic Majesty, for which they will pay," &c.

What certain tracts on the *banks* of the Mississippi could be purchased by Spain after Louisiana had been transferred to France? What rivers, passing through the territory of the Uni-

ted States, went into those of His Majesty? This part of the argument is confirmed by what your excellency says in your last note, to prove to me that Mr. Pinckney meant to offer a guaranty of all His Majesty's possessions. You observe that he could have meant only those immediately on the west bank of the Mississippi; for that "such an offer had been not only unimportant, but vain and illusory, applied to the west bank; which, besides being sufficiently guarantied by its locality, it was notorious in February, 1803, that it had been for three years then past retroceded to France." I say, then, that if this notoriety had reached Mr. Pinckney, he could not have mentioned the *banks* of the Mississippi as belonging to His Majesty, or have spoken of that and other rivers from the United States passing through his territory.

The opinion that Mr. Pinckney meant to guaranty all the possessions of Spain, you find to be confirmed by the great importance which he gives to that offer in the words which you quote from his note; but allow me to observe that, though he intended only a guaranty of that part of Louisiana which lies westward of the Mississippi, his proposal merits all the importance which he has given to it. Again; how could he pretend to offer to such a Power as Spain a guaranty of her possessions to the westward of Louisiana, knowing that the territory of such a Power as France interposed between the United States and the possessions to be guarantied? Such a proposal would have been preposterous and offensive.

These observations render it unnecessary for me to reply specially to the inferences which your excellency is pleased to draw in favor of the Spanish pretensions to East Florida from the offers made by Mr. Pinckney; for those offers, even though they had not originated in an acquaintance with, or a misapprehension of, the then state of affairs, cannot now impugn the right or affect the claims of the United States.

The context of Mr. Pinckney's note and proposals shows that he was then under an impression that His Catholic Majesty was yet master of Louisiana and the Floridas. He speaks of the banks of the Mississippi as he speaks of the Floridas, and equally acknowledges the sovereignty of His Majesty in both territories by proposing to purchase in both. But, whatever may have been his impressions, and whatever value might belong to such a kind of acknowledgment whilst Louisiana was in possession of France, these became of no importance after the province was transferred to the United States; for the claims of the United States do not rest upon the opinions of Mr. Pinckney, but on the transfer made by France.

I do but justice, then, to the good faith of the Spanish Government when I suppose that it declined Mr. Pinckney's offer because it had already disposed of the country proposed to be purchased, as well as of that proposed to be guarantied. I should not do justice to its political forecast if I could suppose that, being the sovereign of East Florida, it had declined to sell it for a reasonable

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equivalent in money, superadded to a guaranty ("immensely important," as Mr. Pinckney well says) of His Majesty's remaining possessions on that continent. With respect more particularly to the guaranty, whatever might have been the disposition of Mr. Pinckney, or even of the American Government, at the epoch referred to, your excellency must be sensible that the relative state of possessions is at this time so altogether different, that no motive sufficiently powerful can be found to induce the United States to enter into any similar obligation as to any portion of His Majesty's territories west of Louisiana.

Referring to a suggestion made in my last note, as well as in our two previous conferences, respecting a desert of thirty leagues, between the confines of Louisiana and the Spanish possessions, as a better security than a guaranty, your excellency is pleased to inform me that though His Majesty thinks that no security is better than a guaranty, yet he has no objection that the one kind should be added to the other; and, though the principal difficulty remains, that is to say, where this desert shall be established, your excellency invites me to put my suggestion in the shape of a formal proposal. I beg leave to remind your excellency that, in my note of the 9th, I have said that this plan of a desert is the only kind of security which occurs to me. It was not then my intention, nor can it be now, as you will observe by what is above said, to add this to any other kind of security; nor was it my intention to offer this, but upon the supposition that His Majesty's Government should consent to the Colorado as the western limit of Louisiana, not doubting but, that point agreed on, we should be able to arrange all the others with great facility. I have no hesitation in expressing myself to your excellency in writing explicitly and frankly, as I have always done in conversation; and nothing would make me so happy as to unite my most earnest efforts with yours, directed by your conciliatory temper and superior intelligence, to bring to an honorable and harmonious conclusion the differences which unhappily exist between our two countries.

My Government will never consent, upon any consideration whatever, to give any guaranty to His Majesty of any part of his possessions; but I will undertake, on its part, to stipulate that a desert shall be placed between his possessions and those of the United States, if by that means we can arrive at an accord with regard to the western boundary, as well as on all the other existing questions; and, whenever your excellency will inform me that the pretension to receive any other species of security is withdrawn, I will then state where I propose that this desert should be placed. I renew, &c.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

SACEDON, July 26, 1818.

SIR: It is some days since this Government has received intelligence, in an unofficial way, that

the American troops under the command of General Jackson had entered His Majesty's territory in the Floridas, and stating that he had demanded the surrender of the Spanish fort of St. Marks, at Appalache; the feeble garrison of which is said to have been surrendered to him as prisoners of war. Notwithstanding the circumstantial details of this intelligence, and the probability attached to them, from the recollection of what took place in 1810, in West Florida, to the westward of the Perdido, and more recently at Amelia Island, His Majesty could not persuade himself, that at the very time when he was so zealously and faithfully promoting, as must be evident to you, the satisfactory termination of the negotiations pending between the two Governments, the generals and officers of the United States would conduct themselves in so hostile a manner, by violating and attacking, in a state of profound peace, the territories and establishments of a friendly Power.

But subsequent confidential advices which have been received of these occurrences not only confirm the truth of former reports, but present circumstances of the most serious character respecting the violation of the Spanish territory, the capture of the fort of St. Marks, and the surrender of the garrison *as prisoners of war*; on which particular circumstance His Majesty finds himself under the necessity of demanding an immediate explanation of the Government of the United States. Information has also been received of an intimation of a most violent nature, made to the commandant of Pensacola by General Jackson, who seems to have taken an attitude indicating a determination to pursue the course of his unprovoked violences and aggressions.

The contrast presented by the moderate and friendly conduct of the Spanish Government with that of the American generals and officers in that quarter has excited feelings of the most painful kind in the mind of His Majesty; and as a final and solid arrangement can only be produced by the reciprocal combination of conciliatory dispositions on both sides, and as these dispositions do not appear, from a view of the facts and circumstances just alluded to, to be manifested by the United States, I have received His Majesty's commands to make this frank communication to you, in order that your answer may serve for his government upon the matter in question.

The King, nevertheless, entertains the hope that the American Government, actuated by those principles of justice which constitute the only real and solid support of all Governments, will not hesitate to disapprove proceedings which are not only repugnant to the laws of nations, and the principles which regulate the conduct of all civilized Powers, but, by the experience of all ages, not excepting our own, ultimately produce the most serious evils to those which commit them, or tolerate their commission. His Majesty therefore flatters himself that the Government of the United States, anxious to preserve its just reputation for good faith, will, in giving positive orders for the evacuation by the American troops of the fort of St. Marks and the whole Spanish



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territory, likewise take effectual measures to prevent the recurrence of similar proceedings, which, if authorized and countenanced, must inevitably produce a suspension of all negotiation.

Under this impression, I have to request that, if you are authorized to give any explanation upon these occurrences, you will communicate them to me for His Majesty's information; and, in case you are not, that you will have the goodness to transmit this communication to your Government, in order to obtain an answer which may fix His Majesty's ideas upon a subject of such high importance, and direct his views in relation to the definitive negotiation now carrying on, the prosecution of which must, in one way or other, be decisively influenced by the spirit in which these events are viewed by the American Government.

I reiterate to you, sir, the assurances of my distinguished respect, and pray God to preserve you many years.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 27, 1818.

SIR: I have had the honor to receive your excellency's note of the 22d instant, enclosing an entire copy of Mr. Pinckney's letter of February 7, 1803, adverted to, and intended to have been transmitted to me in your note of the 19th instant. On reading that letter, I remain confirmed in the opinion which I expressed to you in my reply of the 24th instant, that Mr. Pinckney could not have been aware, when he wrote it, of the retrocession to France which had been made by Spain. The manner in which he treats of the misconduct of the Intendant at New Orleans, and of the necessity thence arising of the United States acquiring a permanent establishment on the Mississippi, leaves not a possibility of supposing that he was acquainted with the transfer to France. Evidently, according to his understanding, New Orleans belonged to Spain; he of course considered Louisiana as belonging to Spain; hence his proposal to purchase certain tracts of that colony on the east bank of the Mississippi; and if such a virtual recognition of the sovereignty of Spain at that time in East Florida, founded on an unacquaintance with facts, could be worth anything, it were equally good as regards New Orleans, respecting which, indeed, it was more formal, for there he demanded the interposition of the Sovereign's authority to remedy an evil arising out of the misconduct of the Intendant.

I renew, &c.

GEORGE W. ERVING.

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 28, 1818.

SIR: I have had the honor to receive your excellency's note of the 26th instant, stating the unofficial and confidential information which has been given to this Government respecting the conduct of General Jackson in Florida. Being now for a long time without advices from my

Government, I am wholly unable to give the explanation which you require; but shall not fail, in pursuance of your desire, to transmit to the United States, without loss of time, a copy of your communication. In the meanwhile, if your excellency can see any prospect of terminating, by a friendly arrangement, to be made either here or at Washington, the negotiations pending between the two Governments, I trust that these reports can be no obstacle to its success. It ought to be presumed that my Government, whose just sentiments His Majesty is well persuaded of, has acted on sufficient motives; or that, if its officers have transgressed its orders, their conduct will be disapproved of. The outrages and violences practised on the persons and property of American citizens for many years past, by governors and other officers of His Majesty in his American colonies, in contempt of the rights of individuals, of the law of nations, and the existing treaty, have excited the constant reclamations of the American Government, renewed by me in a note to you as late as the twelfth instant. Does your excellency's reply to that note give the satisfaction required? Yet the moderation and conciliatory policy of my Government has never relinquished the hope of obtaining, by conciliatory means, a reparation of the wrongs which it has suffered; and these have never been taken as a ground for suspending negotiation. However, then, the facts now in question may prove to have been, I hope that they will not be made an impediment to such an amicable prompt adjustment of all the points in discussion between the two countries as may remove all possibility of future collision, and lay the foundation of permanent friendship; and the less an impediment, as His Majesty having long since signified his disposition to cede Florida to the United States, the military operations which the United States may be forced to in the war made on them by the savages and others from that territory cannot be considered important as effecting the permanent interests of Spain.

I renew, &c.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 6, 1818.

SIR: I have received your esteemed note under date of the 28th of the last month, in reply to mine of the 26th of the same month, touching the positive, although as yet unofficial, information which this Government has respecting the entrance of the American army, under the command of General Jackson, into the Spanish territory, and the taking of the fort of St. Mark and its garrison as prisoners of war, with other circumstances as disagreeable as they are contrary to the laws of nations.

You are pleased to make known to me that you want information and instructions from your Government on this affair, and, consequently, that you are not in a situation to give me the explanations which His Majesty might desire;

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but I promise myself, from your good faith, that you will not fail, without loss of time, to communicate the contents of my note to your Government, that this new and unexpected obstacle which presents itself to the course of the pending negotiation may be removed. Led, no doubt, by the same desire which animates me, to arrive at the wished-for arrangement, you have believed that there could be no difficulty in the continuation of the pending negotiations, whatever may have been the nature of the occurrences in the Floridas; and in support of this opinion, you are pleased to add, that inasmuch as the negotiation was not interrupted in consequence of any of the acts committed in former times by the Spanish authorities against the property and persons of American citizens, so neither ought it to be suspended in this case on account of the aforesaid events, of whatever nature they may have been. But I ask you to consider what an immense difference there is between the two cases. Partial violence or injustice, if it did take place against one or more individuals and their property, although it may indirectly fall upon and touch the Government to which they belong, and authorize it to set up claims, and even to ask indemnity, is not in any manner equal to the direct offence which is offered to the majesty of a Sovereign, and that of the nation he governs, when his territory is invaded by an armed force, his fortified towns besieged and taken, and their garrisons made prisoners of war. These acts, essentially hostile, do not admit of any other explanation than the disapprobation of the conduct of the military chief who has committed them, and the evacuation of the invaded territory; and unless this is first done, it is incompatible with decorum and the dignity of the offended nation to continue other negotiations; for these are acts of political friendship, which must necessarily, at least, be very much cooled by the aforesaid excesses, until the Governments come to an understanding upon a point which is preliminary to friendship.

If the United States have continued the negotiations, notwithstanding any particular acts of violence which may have occurred, and for which the King has never refused to make satisfaction by legitimate means, Spain has given no less proofs of moderation on her part, by continuing the negotiations notwithstanding the invasion of West Florida in 1810, of the island of Amelia more recently, and the immense damages which the commerce and the subjects of Spain have sustained in consequence of the armaments made in the ports of the United States, in contravention of the laws of nations and the existing treaty. Without renouncing (for His Majesty never can renounce) the just claims and rights which he holds to be manifest on these points, he has continued the negotiation, although prompt justice has not been done to him on them; because the circumstances under which some of them took place may, without committing, in any great degree, the dignity of his august character, give room to hope for the arrangement of the whole of them, in the final

decision of pending affairs. It is not so with the recent aggression which took place in the midst of peace and of negotiations; it was unprovoked, and was committed upon a territory to which the United States have never set up the least pretension, well or ill-founded; and was the act of a considerable corps of the army, which, with all the apparatus of war, proceeded to besiege the forts, and to make prisoners of their small garrisons, who, in the confidence of peace, could only have been suspicious of an attack from some party of savage Indians.

The circumstance of His Majesty's having offered to the United States to exchange the Floridas for a reasonable equivalent, far from exculpating the irregular conduct of General Jackson, as you suppose, contributes to aggravate it beyond measure; because it is the height of violence and of insult to seize by force the very thing which, by legal and honorable means, through an exchange mutually beneficial, might have been promptly and easily obtained. His Majesty hopes, then, that the Government of the United States, on seeing the representation made to you by me, and that which will have been likewise made by his Minister at Washington, will disapprove the conduct of General Jackson, and give orders for the evacuation of the Spanish territory; not only because the dignity of the King and the laws of nations require it, but on account of the interest which the American Government must feel in sustaining before the world the opinion of its good faith, by preserving without a stain that reputation which is as essential to Governments as to individuals.

While this hope lasts, I shall have no objection to continue discussions with you upon all or any one of the points of the pending negotiation, as I have indicated in my other note of this date; but if the American Government, on being informed as to the conduct of General Jackson in Florida, should not disapprove it, by causing the territory of His Majesty to be evacuated, I do not see by what mode the prior and preliminary nature of this new occurrence can be conciliated with further discussions and negotiations, until that incident is terminated in a manner proper and corresponding with the character and dignity of both Governments.

I renew to you the assurances, &c.

JOSE PIZARRO.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 6, 1818.

SIR: In your two esteemed notes of the 24th and 27th ultimo, you were pleased to reply to mine of the 19th, relative to the guaranty of His Majesty's possessions, formally offered by Mr. Pinckney, Minister Plenipotentiary of the United States, and on their behalf, in the event of His Majesty's agreeing to sell or cede in any other manner to the United States the two Floridas, or that part of West Florida lying between the Mississippi and the Mobile.

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The said cession being one of the objects of the pending negotiation which His Majesty contemplated making to the United States in consideration of a just equivalent, it was very natural that he should recur to the offer made to him by the American Government in this contingency, the accomplishment of which would tend to remove many difficulties, as affording an unequivocal proof that the United States still preferred those conciliatory dispositions which had produced that spontaneous offer on the part of the United States, and wholly unsolicited by His Majesty.

In replying to your note, it is not my intention to trouble you by engaging in a discussion of the opinion you have advanced, that the guaranty offered applied only to West Louisiana; and I shall merely recall to your attention that, in the year 1803, when more than three years had elapsed since the retrocession of Louisiana to France, this fact was so universally known that no one, either in Europe or America, could be ignorant of it. In addition to the treaty of 1800, a public and solemn act had been issued, under the sign-manual of His Majesty, in 1802, for the delivery of the colony to France; all the acts and publications of the Congress of the United States of the same year, (1802,) and the commencement of 1803, were full of the same subject; and the arrival of Mr. Monroe in Europe, for the purpose of purchasing the colony of the French Government, was matter of notoriety. How, then, could a public character, in the situation of Mr. Pinckney, be ignorant of a fact constantly referred to in the correspondence of his Government, and familiar to every one, even moderately conversant with politics, who would read the gazettes of the day?

It is therefore beyond a doubt that Mr. Pinckney knew that Louisiana belonged to France, and that the guaranty offered by him to His Majesty was that of his possessions on the continent of North America beyond the Mississippi, or to the westward of Louisiana—a guaranty the more interesting at that period, as the establishment on that continent of a great Power, like that of France, was the motive which appeared to give greater importance to the acquisition of the Floridas by the United States, and to the guaranty offered to Spain, as part of their purchase of them.

The contradiction which you conceive exists between this explanation and the terms employed in Mr. Pinckney's offer, is, in my judgment, entirely without foundation. All your difficulty consists in the inquiry, what were the places on the Mississippi that Mr. Pinckney might demand of Spain, which did not form part of Louisiana? or what was pointed out by him in the phrase "certain tracts of country on the banks of the Mississippi?" &c. To which I reply that they were Manchac, Baton Rouge, and the whole left bank of the river from Manchac to the river Iberville, which communicates with the lakes Maurepas, Pontchartrain, and Borgne. You likewise inquire what were the rivers which rise in

the United States, and run through the Spanish territory? I reply that Mr. Pinckney pointed out, or, to speak more properly, expressly named, all those between the Mississippi and the Mobile, which rise beyond the thirty-first degree, and empty into the Gulf of Mexico, namely, the Amite, the Pearl, the Pascagoula, and the Mobile itself, together with other smaller intermediary streams. The territory watered by them was that which Mr. Pinckney wished to purchase of Spain at the time that Mr. Monroe was negotiating the purchase of Louisiana at Paris. This was, and is, the territory forming part of West Florida, as admitted by Mr. Pinckney; it is that which is expressly declared by the American geographer, Mr. Ellicott, to belong to His Catholic Majesty after the acquisition of Louisiana by the United States; and it is that which Spain continued in possession of, even after the delivery of Louisiana to France and to the United States, until she was violently dispossessed of it in 1810, during His Majesty's absence.

What is stated in Mr. Pinckney's letter, in relation to the proceedings of the Intendant at New Orleans, by no means proves that that Minister understood that Louisiana was still to continue in the possession of Spain, as it merely referred to a fact connected with the actual possession and exercise of jurisdiction, which Spain still preserved so long as the delivery of the colony to France was not actually carried into execution.

These points being established in relation to the aforementioned guaranty, its objects, and circumstances, His Majesty's attention has necessarily been called to the positive certainty which you appear to lay down in your answer, that the United States will not agree to any kind of guaranty, notwithstanding the offer above referred to; and to the demand you seem to advance, as a preliminary condition of your stating your ideas on the establishment of the intermediary desert or neutral territory between the possessions of the two countries, that His Majesty shall renounce all further pretensions in relation to the said guaranty.

The offer of it, as I have had the honor repeatedly to state, having been voluntarily made on the part of the United States, in contemplation of an event now under consideration, and it being one of the means best calculated to promote a final adjustment, His Majesty has also charged his Minister in the United States to negotiate with their Government upon that point. It therefore appears to be unreasonable to give up this pretension, which you seem to require to enable you to explain yourself upon other points wholly unconnected with it; and, as I have not expressed to you that the said guaranty is to be a condition *sine qua non* of the definitive arrangement, although your Government objects to it, I do not at present see any inconvenience in your explaining yourself at once upon other points, as I have already invited you to do in my note of the 19th ultimo, without prejudice to what may be agreed upon between Don

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Luis de Onís and the American Government, as well in respect to the said guaranty as to the other objects of the negotiation.

I persuade myself that, in the present communication, as well as in those which have preceded it, you will discover fresh proofs of His Majesty's desire to conclude an arrangement upon terms mutually satisfactory; and I seize this opportunity of renewing to you the assurances of my distinguished respect.

I pray God to preserve you many years.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 9, 1818.

SIR: On the evening of the 7th, I had the honor to receive your excellency's two notes of the 6th instant.

It is not my intention to call in question the importance of those circumstances which you enumerate as of a nature to have rendered universally notorious, in 1803, the cession of Louisiana to France in 1800; but not having in my hands the correspondence of Mr. Pinckney with the Government of the United States, from which I might be able to ascertain what knowledge he may have had on the subject; to what an extent and at what period he was instructed relative to the proposals which he made to Cevallos, I have been forced to conclude that such notoriety had not reached him, or that he was not aware of the true boundaries of Louisiana. It may have been, also, that notwithstanding the treaty of 1800, and notwithstanding the royal cedula of 1802, that Minister may have doubted in 1803 of the *bona fide* transfer to France, seeing that the colony then still remained under the Government of Spain. It is only by such suppositions that I can account for his proposing to purchase of Spain territories which had been ceded to France, and to guaranty territories of His Catholic Majesty on the west of the Mississippi, which could be no other than Louisiana; it not being possible for me to imagine that he intended any country beyond Louisiana, much less all the vast colonies of Spain.

I beg your excellency to observe, that it nowhere appears in Mr. Pinckney's communication that the acquisition made by France had given, as you conjecture, importance in the mind of that Minister to the acquisition sought for by the United States: on the contrary, he is very explicit in the motives which he assigns for his offer; these arose out of the misconduct of the Intendant at New Orleans, which had confirmed an opinion previously entertained in the United States, that it was absolutely necessary for them to acquire some permanent establishment on the east side of the Mississippi, or on the Mobile. To that end Mr. Pinckney asks for the whole of His Majesty's possessions to the eastward of the Mississippi, or for what is "between that river and the Mobile." This proposal includes New Orleans of course. And, again, he speaks of the "indispensable necessity of their (the United

States) possessing a suitable establishment on that river," meaning the Mississippi. Here also he alludes to New Orleans, or, if not, to other points within the territory of Louisiana. Now, though it should be allowed that Mr. Pinckney, as well as Mr. Ellicott, had fallen into the error of supposing that, after the cession of Louisiana to France, the whole of West Florida yet belonged to Spain, neither he nor Mr. Ellicott could have supposed that, after such cession, New Orleans belonged to Spain, or, indeed, any other such point on the Mississippi as Mr. Pinckney sought to obtain.

The replies of your excellency to these questions of mine, which you consider as constituting the principal force of my argument, but which offer to you no difficulty, only prove that our opinions, as to what districts are comprised within the limits of Louisiana, are at variance; and since they prove nothing more, I may be excused from now entering into the various reasonings by which either Government has supported its pretensions.

Your excellency supposes that Mr. Pinckney's negotiation was concurrent with that contemplated, and then on the point of being made, with the French Government, for the purchase of Louisiana; that it was therefore he sought to procure "places of deposit on the mouths of navigable rivers" passing through the Floridas. But, Louisiana purchased of France, Mr. Pinckney's great purpose to "secure to the citizens of one-half of the United States the certain means of exporting their products" was obtained. He wanted a "permanent establishment" on the Mississippi; he could not have desired a better than New Orleans. It was not by the acquisition of points of entrepot on such streams as the Amite, the Pearl, and the Pascagoula, and those intermediate, which are too diminutive to find a place on the chart, or a name, that Mr. Pinckney could have thought of effecting his object, "to secure to the citizens of one-half of the United States the certain means of exporting their products;" these were not the "navigable rivers" which he spoke of; he could not be desirous of obtaining these little spots, while Mr. Monroe was purchasing at Paris real entrepôts, rich territories on both the banks of the Mississippi, rivers which come some hundred leagues from the interior, which may carry on their capacious surfaces the products, not of America only, but of the whole world; while the United States were acquiring, in fine, (according to their construction,) the very territory in which the above-mentioned rivulets as well as the more important Mobile run.

But whatever may have been Mr. Pinckney's knowledge of the then state of affairs, whatever were his views or offers, his plan of a guaranty was not reproduced in the negotiation which soon afterwards took place at Aranjuez, by the special mission of which he was a member; the actual negotiations are but a renewal of that which then failed. If the United States then abstained from offering, or refused to give a guaranty, *a fortiori*,

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they will do so now. Under no circumstances whatever could the offer made by Mr. Pinckney, not accepted at the time, have been binding upon the United States, or have formed a rule for its conduct in subsequent negotiations; much less can that offer be admitted to consideration at this day, under a total change of circumstances and of relative possession in the territories which were then the subject of negotiation.

Your excellency seems surprised at the confidence with which I assure you that the United States will not give any guaranty of any part of His Majesty's possessions. I beg your excellency to be persuaded that I have not spoken at hazard. I am perfectly certain that no such guaranty will be given, upon any consideration whatever; and, therefore, nothing was more reasonable than that, in treating with you, I should pretend to have it altogether excluded from our view. In the present state of the negotiation, after it has been repeatedly transferred and retransferred from Madrid to Washington, it were, on my part, worse than a waste of time to encourage a discussion on an article which I know to be in any form inadmissible. It would be a procrastination almost criminal in this most pressing and difficult crisis of our affairs; nor would it comport with the sincerity which has marked all my communications with your excellency, since, as no reason for taking the guaranty into consideration in the year 1818 can be derived from what the Minister of the United States proposed in the year 1803, even "voluntarily," in "the most plain terms," or by the express orders of his Government, such a course, far from facilitating a general arrangement, as you have supposed, could not but retard it, and might possibly so retard it as to be fatal to it. Your excellency ought, then, to conclude that the answer which will be given to His Majesty's Minister on this point will, in substance, conform to that which I have given; and since, as you inform me, the guaranty is not made a *sine qua non* by His Majesty's Government, I trust that it will be altogether put aside.

Your excellency's other note, respecting the conduct of General Jackson, I shall hasten to transmit to my Government, together with your note of 26th July on the same subject. Though I should allow all force to the distinction which your excellency makes between this case and those acts of His Majesty's viceroys, and other officers in America, of which the Government of the United States and its citizens have had such frequent reasons to complain, and though it should not be allowed that an accumulation of such wrongs makes a case as strong as can be stated, yet it would suffice to show that, amongst the acts referred to, could be found at any time pretexts for breaking off negotiation; and this would not be difficult. The moderation and conciliatory policy of the American Government has been put to the severest trials; but, far from desiring to make out such acts a plea for discontinuing negotiation, they seem to me to press upon us the necessity of hastening to its conclusion.

If, then, your excellency is now prepared to

make any such proposals for a general arrangement of the points in discussion specified in Mr. Adams's letter to Mr. Onís of January 16th as I am authorized to accept, I shall adopt them without hesitation; but if, from whatever cause, your excellency should not be disposed to offer such proposals, then I entreat you, considering the great importance of the matter, and the delicacy of my situation in regard to it, as explained to you on a similar occasion last year, that you would be pleased to make to me such an explicit communication as will enable me to show to my Government, with as little delay as possible, that it is out of my power to conclude a treaty here.

To give to your excellency the most convincing proof of my earnestness to contribute as far as possible to the desired object, I will accede to your instances by stating, in precise terms, my proposal of the desert which I first suggested to you in our conferences of the 3d and 5th July, after your excellency had assured me of His Majesty's intention to ratify the convention of 1802. That important point being settled, and, at the same time, His Majesty's dispositions to cede his possessions to the east of the Mississippi for a reasonable equivalent being announced, it appeared to me that the remaining reclamations of the United States might easily be adjusted in the "transaction;" and, therefore, that the only real existing difficulty was to establish the boundary on the west, between the possessions of His Majesty and those of the United States; or, in other words, to determine the extent of territory east of the Rio del Norte to be ceded to His Majesty. The line of the Colorado appeared to be objectionable to His Majesty's Government, without a guaranty, such as it is impossible for the United States to give. I proposed to substitute for it what I considered as better for Spain—a barrier between its possessions and those of the United States. I now propose, then, that the desert, which is to form this barrier, be of thirty leagues breadth; that is, fifteen leagues on the right bank, and fifteen leagues on the left bank of the Colorado, and extending in length from the mouth of that river as high up towards its source as the thirty-second degree of latitude. If Spain should not consider it necessary that the desert should be as broad as thirty leagues, she may diminish it on her own side of the river as much as she may judge fit. Within the desert no persons shall be admitted to settle or establish themselves; and each party may establish military posts on its own portion of the desert for the purpose of keeping off intruders or settlers of any kind.

This proposal, which originates in a sincere desire on my part to meet as nearly as possible the views of your excellency, I hope may prove acceptable to His Majesty's Government; but, in making it, I must at the same time beg leave to state, explicitly, that in case it should not be accepted, and become the means, as I trust it will, of enabling us to settle by treaty, to be now made here, all the other points in discussion, then it cannot be recurred to or have any force in

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future negotiations, either here or at Washington, or be considered at any time hereafter as in anywise binding my Government, either in what relates to the Colorado instead of the Rio del Norte as the boundary of the United States, or in what relates to a desert on that boundary.

I renew to your excellency assurances of my very distinguished consideration,

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 11, 1818.

The letters of Don Luis de Onis, under date of 20th June last, assure us that it was publicly known in the United States, and inserted in the gazettes of that country, that General Jackson, continuing his hostile incursions within the territory of His Majesty in the Floridas, had taken by assault the fortified town (*plaza*) of Pensacola, whose small garrison, it is said, did its duty and preserved the honor of the King's arms, by forcibly resisting, as far as it was possible for it to do, the unjust and unexpected aggressor.

Although, as yet, no direct information has been received from the Floridas respecting these disagreeable events, no doubt now remains that General Jackson, trampling under foot all laws, has committed in the territory of His Majesty outrages and excesses of which there are few examples in the civilized world. It will one day or other be stated with surprise, that the theatre of such devastation and unprovoked offence, in the midst of peace, was the very same on which Spain, not many years since, shed her blood and poured out her treasures for the United States, in the days of their calamity.

After what I have had the honor of stating to you in my notes of the 26th of last, and 6th of the present month, in consequence of the first hostilities and excesses of General Jackson in the Floridas, I will only now add, that, in consequence of the occurrence at Pensacola, the King has commanded me to communicate to his Minister in Washington the most express orders that, at the same time he presents to the Government there the most solemn protest, in the name of His Majesty, against the invasion of the Floridas, and against the taking of the forts of St. Mark and Pensacola by the American troops, he should solicit that the things be placed in the same state and situation in which they were before the invasion; and that the artillery, munitions, and effects which were found in St. Mark's and Pensacola at the time of their surrender, should be delivered to the Spanish governors of that territory; that reparation be made by the American Government for what may have been destroyed in them, and that it be accountable for the damages and injuries occasioned by the said aggressions; and I have likewise, by royal order, apprized the said Don Luis de Onis that he should give advice of the result of these proceedings without delay, that it may be known to His Majesty.

The King persuades himself that the Govern-

ment of the United States will not refuse an act of justice so becoming its good faith; and I send to you this exposition, to the end that you may transmit it to your Government in connexion with those which preceded it, and with the same object.

I renew to you the assurances of my most distinguished consideration, &c.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 14, 1818.

SIR: I have had the honor to receive your excellency's note of the 11th instant, containing the information which you have received from His Majesty's Minister in the United States, respecting an assault made on the place of Pensacola by General Jackson, and communicating to me the orders which His Majesty has consequently given to that Minister. I shall not lose a moment in transmitting to my Government a copy of your excellency's note, having already despatched your two former communications relative to the anterior proceedings of General Jackson.

I renew to your excellency assurances of my distinguished consideration.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 29, 1818.

SIR: A continuation of disagreeable intelligence on the nature and circumstances of the late events in the Floridas, and on the hostile proceedings of the American General, Jackson, and the troops under his command, within the limits of those provinces belonging to His Majesty, has been received at this office. In addition to the facts to which I called your attention in my notes of 26th July and 6th and 11th instant, I have now before me a copy of the capitulation which appears to have resulted from the hostilities committed by the General before the place of Pensacola, in consequence of which the Spanish garrison has been sent to Havana.

In my former notes I had the honor to state to you that, notwithstanding the particular character of violence which appears to have marked the operations of General Jackson from his first movements in Florida, His Majesty, willing to attribute those acts to the arbitrary conduct of that officer, was persuaded that the Government of the United States would not hesitate to disprove, as soon as they should be informed of them, and that, in consequence, suitable orders would be given, not only for the evacuation of the invaded territory, but also for the indemnity of all injuries sustained, and the restoration of the property belonging as well to the Spanish Government as to its subjects, and likewise that of foreigners then under the protection of His Majesty's Government. It was not to be presumed, without offering an insult to the good faith of the American Government, that they would delay to give this satisfaction to a friendly Power,

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and, this testimony to all civilized nations of their respect for the principles of social order.

It is with great regret that His Majesty perceives, by subsequent advices from his Minister at Washington, that the first excesses of General Jackson having received no marks of disapprobation, he had not hesitated to pursue his violences by forcibly taking possession of everything within the Spanish territory, when he met with resistance from the few feeble garrisons, attacked in a state of profound peace by a large force, which their honor rendered an indispensable duty. In fine, His Majesty's territory has been shamefully invaded; his forts and places have been violently seized on; their garrisons made prisoners, and conveyed out of the province in which they were employed in His Majesty's service; and on the Spanish soil sanguinary executions have taken place of the subjects of Powers in amity with the King—an act of barbarity glossed over with the forms of justice, and thereby rendered, on considering the nature of the place and other circumstances, a refinement of cruelty.

It cannot be doubted that these excesses have come to the knowledge of the Government at Washington; but as yet it does not appear that any measures have been taken to restrain them, or give the Spanish Government the only satisfaction admissible. In this state of things, His Majesty has thought it becoming his honor, and that of the nation, to direct me to renew to you, as I now do, the most solemn protest against the whole proceedings of General Jackson from the moment of his entry into the Floridas; and, moreover, to the end that you may in like manner lay the same before your Government, that, in consideration of the nature of the said injuries and acts essentially hostile, the course of the pending negotiations between the two Governments shall be, and accordingly is, suspended and interrupted, until the Government of the United States shall mark the conduct of General Jackson in a manner correspondent with its good faith, which appears to be no other than by disapproving the afore-mentioned excesses, giving orders to reinstate everything as it was previous to the invasion, and inflicting a suitable punishment on the author of such flagrant disorders.

It is a matter of great concern to His Majesty to be under the necessity of making this declaration, which is more the necessary effect of the nature of things than an act of his royal will; it having been his constant wish and endeavor to combine a suitable arrangement of the point in discussion between the two Governments with an activity which is evident; but the partial world cannot fail to admit the impropriety, in the present posture of things, of continuing negotiations which suppose a state of perfect political friendship at the very moment when enormous injuries are committed, equally unprovoked and unprecedented.

The occupation of the greater and the best part of West Florida by the United States in 1810, by which His Majesty was dispossessed, during his captivity, of the peaceful occupation of

that territory, under the pretence of claims which, even if well founded, ought never to have been enforced by acts of violence, and the more recent invasion of Amelia Island, were acts of the same nature and tendency with those alluded to; equally unjust in their principles, and in like manner remonstrated and protested against by Spain; but as, from the mode and circumstances attending them, they were less offensive, His Majesty, actuated by sentiments of moderation, thought that he might await the period of the definite arrangement of the pending differences, which was speedily looked for.

But nothing of the same nature has occurred in the present case. No claim to the territory invaded by General Jackson, whether founded or unfounded, has been advanced by the American Government. No revolution of the inhabitants, real or supposed, offered a pretext; no previous aggressions by banditti, as was urged on the occasion of the unjust occupation of Amelia Island. The Spanish flag waved on the fortresses of St. Mark and Pensacola at the time they were attacked; and, to complete the offence, that territory was seized on by violence which His Majesty had offered to cede to the United States, in the pending negotiation, by means of an honorable arrangement: from which it appears that a forcible occupation was preferred to a peaceful acquisition, resulting from the generous friendship of the King.

It is these extraordinary circumstances which have convinced His Majesty that it is incompatible with the honor of his august character to pursue further negotiation, until a suitable termination be put to an incident which, from its nature, is of primary importance, and claims a preference to all other matters now treated of between the two Governments—an incident which, from its transcendent moment, is capable of producing an essential and thorough change in the political relations of the two countries.

At the same time, to evince the moderate and conciliating disposition which characterizes the conduct of the Spanish Government, I have to add that His Majesty, in directing me to communicate to his Minister at Washington this suspension of the negotiation, has likewise charged me to inform him that, in case the Government of the United States should have given, or will give, the only satisfaction which is admissible in the present case, and which His Majesty has a right to expect from the justice and good faith of that Government, he will be at liberty to proceed in the negotiation which has been carried on, without being under the necessity of consulting His Majesty, or of awaiting fresh instructions authorizing him to continue it.

In making this communication to you, sir, I cannot refrain from expressing the deep regret I have felt at the unfortunate occurrence which has thus produced an unexpected interruption, at the moment I flattered myself with the hope of seeing the political relations of the two Governments established on the solid basis of the most perfect harmony and good understanding.

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I renew the assurances of my distinguished consideration, and pray God to preserve you many years.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 31, 1818.

SIR: I had the honor to receive yesterday your excellency's note of the 30th [29th] instant, and shall not lose a moment in submitting a copy of it to my Government.

I cannot but express to your excellency my sincere regret on seeing the determination taken by His Majesty to suspend the negotiations, in consequence of the military operations of General Jackson in Florida; which regret is augmented by considering that, on the 6th of August, when your excellency, after insisting at large on what you considered to be the violent character and unjustifiable nature of those proceedings, nevertheless, at the same time, invited me to continue the negotiation here, by acquiescing in the desire expressed in your note of July 19th, and stating, in precise terms, my proposal of a barrier on the western frontier of Louisiana—an invitation which, relying on the good faith in which it was made, and having entire confidence in the conciliatory dispositions of your excellency, I had no hesitation to accept. My proposal was formally stated in my note of August 9th, to which your excellency has not seen fit to reply. It only remains, then, for me, in this place, to renew the reserve expressed at the end of that note, and to declare that the said proposal cannot be considered as in any sort binding on my Government in any future negotiation.

I renew to your excellency assurances of my distinguished consideration.

GEORGE W. ERVING.

*Extract of a letter from Mr Erving to Mr. Adams dated*

MADRID, September 20, 1818.

The paper herewith enclosed is a copy of the King of Spain's grant of lands to the Count of Punon Rostro.

THE KING:

My Governor of the Floridas, brigadier the Count de Punon Rostro, submitted to me, on the 3d of November last, what follows:

"Sire: The brigadier Count de Punon Rostro, grandee of Spain of the first class, and your gentleman of the bedchamber in actual attendance, &c., with the most profound respect, submits to your Majesty: That, prompted by the desire of promoting, by all possible means, the improvement of the extensive waste and unsettled land possessed by your Majesty in the Americas, which, by their fertility, offer the greatest advantages, not only to your memorialist, but to the State, provided due effect, as is hoped, be given to the noble project formed by your Majesty's memorialist of converting a small portion of those deserts into the abode of peaceable Christian inhabitants,

whose industry will increase the population of your kingdoms, promote agriculture and commerce, and thereby add immensely to your royal revenues. This enterprise should be conducted by a person who, with a knowledge of the country, would combine the intelligence necessary for comparing the progress made by other nations in similar situations, and particularly by the United States, which, within a very recent period, have advanced their power to an extraordinary height, and especially in the instance of the Mobile country, adjoining Florida, which, in the last six years, has received such an influx of emigrants, as to be converted from a desert waste into a rich commercial province, highly improved, and peopled with more than three hundred thousand souls. A similar change would be effected in Florida, within eighteen or twenty years, by the adoption of judicious arrangements, and by those exertions which your Majesty's memorialist proposes to employ for the promotion of his personal interest, and, consequently, that of the State. Relying, then, on the merits of the case, in the lively interest felt by your Majesty in the national prosperity, and on the services and sacrifices of your Majesty's memorialist, he humbly requests your Majesty, that, taking them into consideration, you would be graciously pleased to grant and cede to him, in full right and property, and the mode and manner required by law, all the waste lands not heretofore ceded in Florida, lying between the river Perdido, westward of the Gulf of Mexico, and the rivers Amuraja and St. John, from Popa to the point where it empties into the ocean, for the eastern limit; and for the northern, the boundary line of the United States; and to the south, by the Gulf of Mexico, including the desert islands on the coast. He therefore humbly prays, in consideration of the premises, and the unquestionable advantages to be derived by the nation, that your Majesty will be pleased to grant this his petition, and thereupon direct the necessary orders to be given to the local authorities to afford him all due aid and protection, as well in designating the territory referred to, as in giving full effect to the whole enterprise: all which he hopes from the munificence of your Majesty."

Having taken the premises into consideration, and bearing in mind the distinguished merits of the memorialist, and his signal zeal for my royal service, as well as the benefits to be derived by the State from an increase of population in the countries the cession whereof he has solicited, I have judged fit to grant to him the same, in so far as is conformable to the laws of these my kingdoms, and to make it known to my Council of the Indies, for its due execution, by a royal order of the 17th December, in the year aforementioned; wherefore, I charge and command you, by this my royal cedula, with due observance of the laws to such cases pertaining, to give full and effectual aid to the execution of the said cession, taking all requisite measures for its accomplishment, without injury to any third party, and to the end that the said Count of Punon Rostro



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may forthwith carry his plans into execution, in conformity with my beneficent desires in favor of the agriculture and commerce of the said territories, which require a population proportioned to the fertility of the soil and the defence and security of the coasts, he giving regular accounts of his proceedings: for such is my will, and that due note be taken of the present cedula in the office of the Accountant General of the Indies.

Done at the Palace, the 6th of February, 1818.  
I, THE KING.

By command of our lord the King:

ESTEVAN VAREA.

To the GOVERNOR OF THE FLORIDAS, that he may take the necessary measures to give due effect to the grant in favor of the Count of Punon Rostro of a tract of country situate in West Florida, as above specified.

Duly noted in the office of the Accountant General of North America, Madrid, March 13, 1818.

JOSEF DE TEXADA.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, October 18, 1818

SIR: Whilst I make known to you that I have received new orders and instructions from my Court to resume the negotiation pending between the Government of the United States and that of Spain, and to agree with you as to everything that may be convenient and proper to give effect, in as short a time as possible, to the desired general and definitive arrangement of all the differences which exist between the two Governments, I ought also to inform you that His Catholic Majesty ratified, on the 9th of July last, the convention signed on the 11th August, 1802, and ratified a year and a half afterwards by the President and Senate of the United States. I have received the ratification by His Majesty, and am ready to proceed with you to the corresponding exchange, if the President deems it proper; but I think I ought, before it is done, to make to you some observations on this point.

The King, my master, agreed to ratify, at the time he did, the convention of 1802, as well in compliance with the verbal intimations given to his Secretary of State by Mr. Erving, Minister Plenipotentiary of this Republic, as from a desire not to omit on his part anything which might be agreeable to your Government. It also occurred to His Majesty that there might be some obstacle or delay in the desired arrangement and definitive agreement respecting the pending differences between the two Governments; and the aforesaid ratification of that convention being represented to him as a conciliatory measure, and very agreeable to the United States, he did not delay an instant in acceding to it. But you know very well that all the points comprehended in that convention form part of the pending negotiation, and that the general and definitive arrangement which I hope soon to conclude with you being intended to embrace all the claims to which

either Power has a right against the other, and all the differences which exist or have heretofore existed between them, that convention will necessarily be abrogated, the points to which it is limited being included in the said arrangement and definitive treaty. For these reasons, which are obvious and entirely convincing, I leave it to your consideration whether we should proceed to the exchange of the ratifications of the said convention, or wait until, the first basis being settled and agreed upon by means of propositions I will instantly make to you, we may be able to judge whether the general and definitive treaty, which must put an end in a solid and permanent manner to all these discussions, will be concluded as quickly as we desire.

I await your answer, and in the meantime I renew to you the assurances of my constant desire to serve you.

God preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onís.*

DEPARTMENT OF STATE,

Washington, October 23, 1818.

SIR: I have had the honor of receiving your letter of the 18th instant, and am directed by the President to assure you of the great satisfaction with which he has learned that you are prepared to exchange the ratifications of the convention of 1802.

Anxiously desirous as he is of seeing brought to a termination mutually satisfactory all the subjects which have been so long in discussion between the two Governments, the President receives this ratification as an earnest on the part of His Catholic Majesty of that conciliatory disposition which he flatters himself cannot fail to extend to a more general and satisfactory adjustment of all the other objects in controversy between us. He directs me, therefore, to accede to your proposal of postponing the exchange of the ratifications, and to assure you that I shall be ready to receive, whenever it may be agreeable to you, the propositions which you inform me you are prepared to make, and which will be considered with the most earnest desire of establishing, by a prompt and honorable agreement, the most perfect good understanding and harmony between our countries.

I tender to you, sir, the renewed assurance of my very distinguished consideration.

JOHN QUINCY ADAMS.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, October 24, 1818.

SIR: Notwithstanding the unfortunate events which have occurred since April last, I have received from my Court solemn assurances of the sincere desire of His Catholic Majesty to see every ground of complaint and disagreement between the United States and Spain completely removed, and of his earnest wish to strengthen and cement a good understanding and the most

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cordial friendship between the two nations. Having transmitted to His Majesty's Government the whole correspondence which lately passed between us here, it has been examined with the most profound attention to all the points embraced in it. A multitude of authentic papers and original documents, of the most unexceptionable authority, on each of the several points involved in the controversy between the Government of the United States and that of His Majesty, were examined, offering incontestable evidence of all the rights hitherto sustained by the Crown of Spain, and refuting, with the clearness of truths universally admitted, and by facts and vouchers equally notorious and unquestionable, the reasoning and arguments upon which your Government found their claims.

It was the earnest wish of His Catholic Majesty that the whole dispute should be adjusted by his Secretary of State, Mr. Pizarro, and Mr. Erving, the Minister Plenipotentiary of this Republic, and that they should proceed to a final arrangement of all existing differences by means of a definitive treaty, which should combine, to the satisfaction of both Governments, the inviolable principles of general justice with the equitable views of reciprocal convenience and utility. His Majesty offered, on his part, to do everything that might be possible, or compatible with the rights and dignity of his Royal Crown, liberally to satisfy the desires expressed by the United States. But Mr. Erving has declined acceding to this adjustment, although the correspondence between him and the Secretary of State was still carried on with a view to that result at the departure of the messenger who was despatched to me from Madrid on the 21st of July last. His Majesty, being apprehensive, notwithstanding his wishes, that the amicable termination of these important affairs might suffer delay, has been pleased to give me such instructions and orders as may enable me to adjust with you all pending differences between the two Governments, and effect the desired arrangement by means of a definitive treaty. For this purpose, His Majesty gave orders that the documents and proofs should be transmitted to me, which were necessary to convince the United States of the unquestionable rights of the Crown of Spain to the territories and waters claimed by your Government as forming an integral part of Louisiana. I have received a considerable number of the said documents and proofs, and an examination of many others was taking place in Spain, which are to be sent to me. The result of this inquiry established what I stated to you in my notes during my late abode at Washington, and especially in that which I addressed to you on the 23d March at the same period, in answer to that which I received from you of the 12th of the same month, upon all the points in dispute. It exhibited an incontrovertible series of facts from the earliest periods of discoveries, conquest, or occupation, and the successive establishments of the Crown of Spain, in that part of America, to the present day. It proved that Spain, long prior to any other na-

tion, discovered Florida, that is, all the vast and beautiful country extending from what is now termed East Florida to the Rio Bravo, or Rio Grande del Norte, which was then the boundary of the kingdom of Mexico, of which she was already in peaceable possession. From the period of the discovery of this extensive region by Ponce de Leon, in 1512, and the establishment of the first act of possession in the name of the Crown of Spain, repeated and regular expeditions were formed, composed of troops, artillery, and everything necessary for penetrating through the whole country, examining all its positions from the coast to the interior, and all its rivers, creeks, and bays, reducing the natives, or establishing trade and friendship with them; and for occupying all such places as might appear best calculated to bring and preserve under the dominion of Spain the said country throughout its whole extent. I stated to you in my said notes (and am enabled to prove it by the most ample documents) that this was the object of the expeditions of Vasquez de Ayllon, in 1520, and of Panfilo de Narvaez, in 1528. The latter obtained from Charles I. of Spain and Emperor of Germany a solemn authority to reduce the whole country from the bay of Espiritu Santo, in East Florida, to the river Palmas. He arrived in the said region with a respectable force, and examined it from east to west. In this he had been preceded by Francisco de Garay, who passed through it by land from the bay of Espiritu Santo to Panuco. Hernando de Soto was soon afterwards appointed Governor General of Florida, the name then given to the whole of this vast country. He entered it with a powerful force, and repeated the solemn acts of taking possession of it in behalf of Spain. He afterwards examined its extensive limits, and founded several settlements. He was succeeded in his Government by Moscoso, who continued to explore the country and extend the settlements. These two first Governors General of Florida traversed and examined it, as I have said, from east to west; from the point, or cape of that Florida now called East Florida, to the Rio Bravo, crossing the Mississippi, which was then called the Palisada, and all the others which empty into it, or into the Gulf of Mexico. From that period Spain has uniformly continued in the dominion and possession of all that country, in which she successively founded the province of Cohaguila, the kingdom of New Leon, that of New Mexico, &c.; also the province of Texas, which she has retained until the present time. It is an unquestionable fact, and of universal notoriety, that the whole country I am now speaking of was known from the beginning by the general denomination of Florida, and included all the coast from the point of Florida now called East Florida to the Rio Bravo, and all the country and the waters of the interior; of this a full and uniform proof is afforded by the history and most respectable documents of those times. During the lapse of two centuries the whole of this vast country was known to the nations of Europe under no other name. Not only the Spaniards,

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but all foreigners, laid it down in their maps and charts under this name, and with the same limits. I might here cite the English traveller, Dampier, and several others, who thus denominate and lay down this beautiful region in their maps and descriptions; but why should I now dwell on what never admitted of a doubt or change until the Frenchman De Lisle, through ignorance, erroneous information, or partial motives, extended in his idea and map the boundaries of French Louisiana to the Rio Bravo? This error or extravagance has ever since been adopted by all those who have had an interest in supporting the illusion, or have carelessly or unguardedly copied the gratuitous suppositions of that geographer. But as this is in direct contradiction to the history of those early times, and the most unquestionable documents which established the contrary, these chimerical and absurd suppositions are entitled to no credit whatever, although they have been advanced with great gravity and ostentation.

It is, moreover, a fact beyond all dispute, that the Crown of Spain was established as the lawful owner and possessor of all the aforesaid region, and that it has uniformly been preserved under her dominion to this day, with the exception of such parts of it as, by treaties, conventions, and other solemn acts, she has transferred to foreign Powers.

As the introduction of the French into part of that region has formed the ground of the claims of your Government, I shall confine my remarks to them. In the course of our late correspondence, I stated to you in my notes the manner in which the French got a footing in that part of the Spanish dominions, and how they proceeded to form the colony to which they gave the name of Louisiana.

But to form a just idea of the establishment of that colony, and of its precise extent and boundaries, it is necessary to take a view of it at three different periods: 1st, under the direction of the Government of France; 2dly, under that of Crozat and the French Western Company; and 3dly, under the Government of the Crown of France.

I do not deem it necessary now to detail minutely the first attempt of the French on the old Florida, in 1562. It is well known that John Ribaut, to whom the conduct of the expedition was committed, through the influence of Admiral Coligny, was completely routed by the Spaniards under General Melendez de Abyles. This General having attacked the French in their fort of Carolina, all those who escaped the assault were made prisoners of war; and, having pursued their vessels, he and stormy weather put an end to the wretched remains of this French expedition. Abyles founded the castle and forts of St. Augustine, which then became the capital of all Florida; established various other posts; and enforced a respect for the dominion of Spain over all the coast and territories of that vast region. The French never again returned there, until the last attempt of the celebrated La Salle, who, towards the close of 1684, sailed from France

with an expedition to discover the mouths of the Mississippi. At this period, the French had already established themselves in the lower part of Canada. Fearful of meeting a fate like that of Ribaut, they avoided an interference with the countries belonging to the Crown of Spain, and confined their establishments to the coasts of the Atlantic. The savages, or aborigines of Canada, had a knowledge of other Indian nations inhabiting beyond the Lakes, and of a very remote country watered by a great river, which, as they said, ran neither to the east, to the west, nor to the north, but which might probably run to the south, and empty into the Gulf of Mexico. It was they who, in 1660, gave the French of Canada an idea of this country and river, although very limited, vague, and obscure; and excited in the minds of Joliet, an inhabitant of Quebec, and of the missionary Marquette, the project of crossing the lakes, and penetrating into the said country to explore it and the river. They realized their project, embarked on Lake Michigan, ascended the river Zoras to its source, afterwards travelled by land, and, returning to the entrance of the same river, navigated to the westward, and on the 2d June, 1673, they struck the Mississippi. They then descended this river as low as the Arkansas, in thirty-three degrees north latitude; but, fearful of falling into the hands of the Spaniards, they afterwards retreated to Canada, and on their return passed through the country inhabited by the Illinois, whom they found disposed to trade with the French of that colony.

This excursion produced no result whatever, and would have been wholly forgotten at the death of Marquette, but the famous La Salle, an enterprising and resolute man, who had come to Canada with the design of exploring a passage from thence to Japan, or China, having heard of Joliet's narrative, conceived the project of repeating the same journey. He embarked for France, and on his arrival at Paris proposed his plan to the Prince of Conde. Patronized by him and the Government, he returned to Quebec with a company of thirty associates, and the Chevalier Tonti, a brave and experienced officer. At Quebec he was joined by Father Hennepin, and, at the head of this party, set out on the journey formerly made by Joliet and Marquette. Having encountered extraordinary difficulties, he employed several years in accomplishing it. On the 4th of March, 1681, he arrived at the Arkansas. In April of the following year, he proceeded as low down as the mouth of the Mississippi; and in the Spring of 1683, he returned to France to give an account of his discoveries. With all due ceremony he took possession of the Arkansas and the Mississippi, in the name of the Crown of France, although it was well known that all those countries were under the dominion of Spain. In performing this journey, La Salle did no more than explore distant countries, and that in a clandestine and secret manner, being under the necessity of defending himself both against the Spaniards and the English, who repeatedly fell in with and attacked him.

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La Salle, having given an exaggerated account of his discoveries in this part of America, was authorized by his Court to search for the mouths of the Mississippi, and occupy some position on its banks. This was the object of the maritime expedition with which he sailed from France under the command of Beaujeau, for the Gulf of Mexico, which he entered on the 12th of December, 1684. In the notes I lately addressed you at Washington, I stated the result of this expedition, and of the labors of La Salle. Driven on the coast of the province of Texas, it was with difficulty this distinguished adventurer found safety in the bay of St. Bernard. He crossed by the Trinity river, and constructed a redoubt to defend himself against the Indians; but, not being able to defend it, he determined on abandoning the country, and was assassinated by his own party. The Indians attacked the fort or redoubt, in which he had left some of his people, demolished it, and massacred them. Of this unfortunate expedition, seven men only escaped; five of whom succeeded in reaching the Arkansas on the 20th of July, 1687, and returned to Montreal in May following. The others found their way among the Cenis or Asinais Indians.

I presume that I have fully proved to you in my former notes that this shipwreck of La Salle on the coast of Texas, and his entry into the bay of St. Bernard and adjacent country, can give no right to France to that bay and country, they being already under the dominion of the Crown of Spain. In fact, what right could France have to extend herself from her remote colony of Canada to those territories? But France only authorized La Salle to search for the mouths of the Mississippi, doubtless in the belief that this river was not within the Spanish possessions. I also stated to you that the most effectual measures were instantly taken by the Viceroy of Mexico and the Spanish Government to drive the French from any position they might have occupied on the Gulf of Mexico, or in the interior. This was one of the special objects of the successive expeditions of Alonzo de Leon, Domingo Teran, and Gregorio Salinas. I say that this was one of the objects of these expeditions, because they were likewise charged with forming different establishments in the province of Texas, or of the Asinais, and securing the whole coast from any incursion of foreigners. They executed the object of their mission; so that the French made no further attempts from that time to the expedition of Iberville, in 1698, the period when the French first established themselves on the Gulf of Mexico. Iberville, an experienced seaman, who had distinguished himself by his fortunate expedition to Hudson's Bay, in 1697, appeared off Pensacola with his squadron, but, discovering that the Spaniards were occupied in fortifying that place, he shaped his course for the river of Mobile. He entered it on the 2d of February of the same year, and took possession of Massacre Island, which he called Dauphin Island. On the 2d of March, 1699, he entered the Mississippi, and ascended as high as the Bluffs; he there received

a letter from the Chevalier Tonti, by which he ascertained that this was really the Mississippi, and that the Indian nations which he had communicated with showed a very favorable disposition to trade with the French. He then returned to Mobile, and, leaving that place in the charge of Sauvole and Bienville, proceeded to France to give an account of his expedition. The Court of Spain, having been already informed of these enterprises, determined to expel the French forever from those positions, and from all the Gulf of Mexico; but this being about to be executed, the death of Charles II. occurred, and the Duke of Anjou succeeded to the Crown under the name of Philip V. Spain being then embarrassed with the war of succession, and united by a close friendship with France, overlooked the establishment at Mobile. In January, 1700, Iberville returned there, but made no progress in his projects, from the want of means and the badness of the climate. This feeble colony continued to languish without any prospect of realizing the extravagant expectations at first formed by the French. Louis XIV., setting little value on it, conferred the entire property of it on Crozat, in 1712. It is unnecessary to point out the errors and absurdities contained in the grant of Louis XIV. to Crozat, as I have already stated them to you in detail; I shall, therefore, only have to speak of the second period, that of the establishment of this colony, and show its progress. La Motte Condillac being appointed Governor, and Duclouis intendant of this famous establishment, they formed with Crozat a supreme tribunal for all civil and criminal cases. It was at that time that the excursion of the Frenchman St. Dennis into the interior of New Spain took place, in which he passed through various Indian nations from the Mississippi to the Rio Grande. In my former communications I stated what appeared to be necessary on the character and movements of this celebrated adventurer. I shall only add here, that although his apparent object was the establishment of a traffic with the people of New Spain, yet it merely served to cover the design of exploring the Spanish territories, and of extending the settlements of his countrymen therein. As soon as his views were discovered, measures were taken in Mexico to counteract them, and rigorous orders issued by the Court for the same purpose. It was this incident which produced the vigorous measures of the Viceroy of Mexico, the Duke of Linares, and the despatch of the troops and missionaries to the province of Texas, forming the fifth expedition of the Spaniards to that province—a fact which serves as a complete refutation of all that has been advanced by Du Pratz and other French writers. Alonzo de Leon informed the Spanish Governor Alarconne, from Texas, on the 21st May, 1717, that he had just founded two establishments there, one of them within ten leagues of the Natchitoo; and that he was about to proceed to the Caudachos in consequence of having received information that the French were endeavoring to make a settlement there, and that there were already ten men of his

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nation among the Natchitooos. The chief object in forming this Spanish settlement was to observe and check the French; and it was soon after increased by the construction of a fort called San Miguel de los Adaes, which was garrisoned by a competent force.

St. Dennis promoted the settlement of several Frenchmen among the Natchitooos, for the purpose of serving as an intermediary point in his journeys to the Rio Grande. He called this settlement San Miguel, and this gave rise to the error of Champigny, who has confounded this paltry establishment with that of the Adaes. That which was formed by the French cannot be considered of any importance until May, 1717, when the Governor of Mobile first sent a commandant with a party of ten men as a garrison, at which time the Spanish fort of the Adaes was already built. Such was the origin of the French settlement and fort at Natchitoches—the only acquisition made by the colony of Biloxi, or Mobile, in the neighborhood of the Rio Roxo, (Red river,) under Crozat or the Western Company. In 1718, the company laid the foundation of New Orleans, to which the general government of the colony was transferred in 1722, and the settlement at Biloxi abandoned. In June, 1723, Bienville endeavored to take possession of the bay of St. Joseph; but, being opposed by Salinas, the Spanish Governor of Pensacola, he desisted from his attempt. Thus the colony went on without making any progress, until the French company, tired out with the disasters and losses it had suffered in the wars with the neighboring Indians, and convinced of the inutility of that establishment, surrendered their privilege to the Crown in 1730 or 1734, which forms the last period of that colony.

I have made no mention of the French settlements in the Arkansas and the Illinois, as they were formed by people from Canada, and tolerated by Spain merely as places occupied for the purpose of trading with the Indians, because, from the reasons I have touched on, it is evident that France could have no right to occupy them but through the permission or toleration of Spain. Louis XIV. had declared to His Catholic Majesty's Government that he occupied Mobile and other places in that region solely with a view to aid Spain in case of a war with the English; and having requested permission of His Catholic Majesty to keep a force at Mobile for that purpose, it was refused, by the advice of the Council of the Indies. The situation of the French colony did not improve under the immediate administration of the Government; part of it was ceded by His Catholic Majesty to England, in 1763; and the other part, that is, the city and island of New Orleans, was, as you know, ceded and delivered to Spain in 1769. That colony was considerably improved in the hands of Spain, by the establishment of several new settlements. It was retroceded, together with them, to France in 1800, by virtue of a treaty, in which it was stipulated that Spain retroceded it with the same extent it had when in the possession of France, and which

it had at the conclusion of that treaty in the hands of His Catholic Majesty. I consider all I have already stated to you on this point as repeated here; and I shall only add, that although the secret convention for the cession of Louisiana to Spain was concluded in 1763, the two high contracting parties reserved to themselves the right of afterwards agreeing on the suitable time for its delivery to Spain; in consequence of which, France continued in possession of it until 1769. As this act is undisputed, and completed and realized the cession, it is clear that it could not comprehend the territories ceded six years before to Great Britain. As a further proof, we have to adduce the royal cedula of His Catholic Majesty, issued at Barcelona, and communicated to the French Government, in which His Catholic Majesty declares that he retroceded Louisiana with the same extent it had when he received it from France; which declaration serves as an addition to the Treaty of St. Ildefonso, and was conformed to by the French Government, who made use of the said royal cedula of His Catholic Majesty in taking possession of the province thus retroceded, without any other claim or demand on their part.

In the simple epitome which I have presented of the principle and progress of the French settlements in this part of the American continent, I have only touched on the capital points, such as are sufficient to remove all grounds of the present dispute. I am ready to prove in the most ample manner all that I have advanced, by a multitude of indisputable documents, which I will produce, if necessary, the moment that it may be agreeable to you; and you will inform me of your wish to confront them with what I have stated. All the errors which have been disseminated in the narratives and maps of the French authors, and other foreigners who have committed such enormous deviations through ignorance, interest, or the influence of national prejudice, will then be corrected, and the fact established beyond all doubt that France never possessed anything to the left of the Mississippi; and that to the right, she held the posts of Natchitoches, Natchez, Arkansas, and the Illinois, solely by the permission or toleration of Spain, as I have before stated. The settlements at Opelousas, Avoyelles, and Attakapas, were not yet formed in 1762, as is admitted and affirmed by M. Bossu, of the French navy, who did not leave Louisiana until that year, and who afterwards published his voyages to the West Indies; nor were there any commandants of those settlements appointed by that Government, except under the dominion of Spain. La Fourche, which is situated much nearer to New Orleans, was only begun to be occupied by the French in 1763. Vilemond, a Frenchman, established himself on the river Ouachita, or the Black river, (Rio Negro,) during the second period of Louisiana, by occupying a small valley; but this private settlement was not kept up, but afterwards abandoned. What took place at the Arkansas, Illinois, and the Missouri, could give France no right what-

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ever to the posts which she happened to establish and retain, and which were not claimed by Spain. All the rest could not be considered as an integral part of French Louisiana, until the period of the cession to England, and of the restitution and delivery to Spain. It is, therefore, easy to ascertain and determine what was the extent of Louisiana in the possession of the French, and what were its exact boundaries. Moreover, although the hypothesis be admitted that she had or might have some right to other parts of this vast country, she transferred it to England by the cession she made of it in 1763; and when Spain acquired from England the territory ceded to the latter, she included therein this right, such as it might be. Having retroceded to France in 1800 only what she had received from her, it is evident that she could not restore to her this pretended right. Under whatever aspect, therefore, we view the question, the rights hitherto sustained by the Government of His Catholic Majesty in the present dispute remain unquestionable. I allude to them merely to give you the most satisfactory proofs of this truth, and to establish, in respect to the *uti possidetis*, or state of possession in 1763 and 1769, the basis which it is indispensable to lay down for the general and definitive settlement of all pending differences between the two Governments. In that basis will likewise be comprehended all the augmentation with which Spain delivered Louisiana to France, and all that by treaties or other lawful acts has been ceded to the United States.

His Majesty, carrying his particular consideration for the United States, and his sincere desire to meet the wishes of your Government, as far as is compatible with the rights and dignity of his Crown, has authorized me to remove the principal difficulties, and to offer the Government of this Republic the liberal proposals which I have the honor to enclose in a separate paper.

If these proposals should, as I hope, appear admissible and satisfactory to your Government, all the rest which it will be requisite to change, or add, to perfect the definitive adjustment between the two Powers, cannot fail to follow of course, and be easy to arrange. Finally, if there should arise any difficulty or doubt in the mind of the President upon any one of them, which I can remove or clear up, I shall be happy to be made acquainted with it, and most cheerfully do for that purpose whatever may be within the limits of my powers and instructions. I conceive that what I now propose is best calculated to conciliate all the different views and claims, and to adjust all pending differences upon just and liberal principles; it being evident, moreover, that the advantages are wholly in favor of the United States.

In concluding this note, I beg leave to repeat that if, before we agree on what is requisite to effect the desired arrangement, and with a view to proceed to it with a more perfect conviction of the unquestionable rights of each one of the two Powers, you should think it advisable that we should modify and correct any points stated

in the present note, by the production and examination of the documentary proofs which I have offered, I am ready to submit them the moment I receive such intimation from you.

In the meantime, I repeat the assurances of my respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Translation of propositions received in Mr. Onis's letter of October 24, 1818.*

1. The United States declare that they deeply regret the violation of the Spanish territory by the troops under the command of General Jackson, and that, it being done without their orders, and, as the General states, with a view of terminating more promptly the war against the Indians, the United States will restore the town of Pensacola, and the forts of Barancas and St. Mark, and the other territory occupied by their troops in the Floridas, to the Spanish officers duly authorized by His Catholic Majesty to take possession of them: the United States being answerable, as is just, for the injuries caused by the incursions of the troops of the Union, as well to the Crown of Spain as to its subjects; upon which point the proper stipulations shall be inserted in the treaty.

2. His Catholic Majesty, to give an eminent proof of his generosity, and of the desire which animates him to strengthen the ties of friendship and of good understanding with the United States, and to put an end to the differences which now exist between the two Governments, cedes to them, in full property and sovereignty, the provinces of East and West Florida, with all their towns and forts, such as they were ceded by Great Britain in 1783, and with the limits which designated them in the treaty of limits and navigation concluded between Spain and the United States on the 27th October, 1795. The donations or sales of lands made by the Government of His Majesty, or by legal authorities, until this time, are, nevertheless, to be recognised as valid.

3. To avoid all cause of dispute in future, the limits of the respective possessions of both Governments to the west of the Mississippi shall be designated by a line, beginning on the Gulf of Mexico, between the rivers Mermento and Calcasia, following the Arroyo Hondo, between the Adaes and Natchitoches, crossing the Rio or Red river at the 32d degree of latitude, and 93d of longitude from London, according to Melish's map, and thence running directly north, crossing the Arkansas, the White, and the Osage rivers, till it strikes the Missouri, and then following the middle of that river to its source, so that the territory on the right bank of the said river will belong to Spain, and that on the left bank to the United States. The navigation, as well of the Missouri as of the Mississippi and Mermento, shall remain free to the subjects of both parties. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a sur-

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veyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings; and the result, agreed upon by them, shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to these persons, and also as to their respective escorts, should such be deemed necessary.

4. The two contracting parties, animated by the most sincere desire of conciliation, and with the view of eradicating all the discussions which exist between them, and to hasten the conclusion of a definitive and prompt arrangement, by which the good understanding they desire perpetually to maintain with each other may be strengthened, reciprocally renounce all claims for damages or injuries which they themselves, or their respective subjects or citizens, may have suffered, of whatsoever nature they may be, whether they have or have not been presented or made until this date, so that they are to be considered as entirely cancelled and adjusted, excepting those which are specified in first article.

5. The treaty of limits and of navigation of 1795 remains in force, in all and each one of its articles; but to avoid questions in future as to the meaning of the fifteenth article, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this may be so understood with respect to those Powers who recognise this principle; but, if one of the belligerents should not recognise it, the above cited clause of the said fifteenth article shall not remain obligatory on either of the two contracting parties, who may act as they think proper on this point, without giving room for complaints or claims, or being considered as infringing the before-mentioned fifteenth article.

6. Although the two high contracting parties oblige themselves to cause the stipulations contained in this treaty, and in that of limits and navigation of 1795, to be complied with in all their parts, nevertheless, desirous of avoiding all doubt or misinterpretation of their respective clauses, they oblige themselves to make the declarations or laws requisite for the most exact observance of all that is above stipulated, as good faith and the honor of both Governments require, adopting the most efficacious measures to remedy and cut up by the roots the abuses which, contrary to the laws of nations, and contrary to what is expressly stipulated in the treaty of 1795, above cited, daily occur in some parts in this Union, in consequence of the vague and arbitrary interpretation which, it seems, the measures until now adopted are susceptible of, and by which means the law is eluded.

7. In consideration of the sacrifices which His Catholic Majesty makes by depriving himself, in favor of the United States, of the important

provinces of the two Floridas, to satisfy and to cancel forever all their claims, the United States will certify, in due form, that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain; and they will present an authentic statement of the prizes made, and of their true value, that Spain may claim from France the return of this amount.

*The Secretary of State to Don Luis de Onís.*

DEPARTMENT OF STATE,

Washington, October 31, 1818.

SIR: Your letter of the 24th instant, and the proposals contained in it, offered as the basis of a treaty for the adjustment of all the subjects in discussion between the United States and Spain, have been received, and laid before the President of the United States.

I am directed by him to forbear entering into any examination of the historical disquisition concerning the original pretensions of Spain to all the territories bordering on the Gulf of Mexico, and the whole country included in the French colony of Louisiana, which you have thought proper to introduce into your note. The right of the United States to the river Mississippi, and all the waters flowing into it, and to all the territories watered by them, remains as entire and unshaken by anything now adduced by you as by anything which had ever preceded it in the discussions between the two Governments. It is established beyond the power of further controversy; nor could it answer any useful purpose to reproduce proofs which have already more than once been shown, and which, remaining unimpaired, must henceforth be considered by the United States as not susceptible of refutation.

In confining my attention to the propositions which you offer as the basis of a treaty, I have to observe that any further proceedings upon the first of them have been rendered unnecessary by the determination promptly taken by this Government, and communicated to you, to restore the forts of Barancas and St. Mark, together with Pensacola, to any person duly authorized by you, or otherwise by your Government to receive them. You have been informed of the evidence inculcating the Governors of those places, not only as having utterly neglected to carry into effect the stipulation in the treaty of 1795, by which Spain was bound to restrain, by force, the Indians within her territories from committing hostilities against the United States or their citizens, but as having deeply participated in the hostilities of those same Indians. You have been informed that these were the real and only causes of the occupation of those places by the commander of the American forces. Under these circumstances, however, the United States may regret the necessity of that occupation, it is for the Spanish officers themselves to answer to their own Sovereign for the consequences of their own conduct; and the forbear-

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ance of the United States, as well as their respect for the rights and the honor of Spain, are sufficiently manifested by their readiness to restore the possession, and to consign to oblivion the hostile conduct of those officers of His Catholic Majesty.

The uselessness of any stipulation on the subject of this first proposition is further demonstrated by the nature of the second, in which you announce your authority to cede all the property and sovereignty possessed by Spain in and over the Floridas. The effect of this measure being necessarily to remove all cause of contention between the contracting parties with regard to the possession of these territories, and to everything incidental to them, it would be worse than superfluous to stipulate for restoring them to Spain in the very treaty by which they are to be ceded in full sovereignty and possession to the United States. Neither can the United States recognise as valid all the grants of land until this time, and at the same time renounce all their claims, and those of their citizens, for damages and injuries sustained by them, and for the reparation of which Spain is answerable to them. It is well known to you, sir, that notice has been given by the Minister of the United States in Spain to your Government that all the grants of land lately alleged to have been made by your Government within those territories must be cancelled, unless your Government should provide some other adequate fund, from which the claims above referred to of the United States and their citizens may be satisfied.

From the answers of Don Jose Pizarro to this notice, we have reason to expect that you will be sensible of that necessity, and that some time must be agreed upon subsequent to which no grant of the lands within the territories in question shall be considered as valid.

The boundary line proposed by you, west of the Mississippi, can as little be assented to by the United States. Instead of it, I am authorized to propose to you the following, and to assure you that it is to be considered as the final offer on the part of the United States:

Beginning at the mouth of the river Sabine, on the Gulf of Mexico, following the course of said river to the thirty-second degree of latitude; the eastern bank and all the islands in said river to belong to the United States, and the western bank to Spain; thence, due north, to the northernmost part of the thirty-third degree of north latitude, and until it strikes the Rio Roxo, or Red river; thence, following the course of the said river, to its source, touching the chain of the Snow mountains, in latitude thirty-seven degrees twenty-five minutes north, longitude one hundred and six degrees fifteen minutes west, or thereabouts, as marked on Melish's map; thence to the summit of the said mountains, and following the chain of the same to the forty-first parallel of latitude; thence, following the said parallel of latitude forty-one degrees, to the South sea. The northern bank of the said Red river, and all the islands therein, to belong to the United

States, and the southern bank of the same to Spain.

It is believed that this line will render the appointment of commissioners for fixing it more precisely unnecessary, unless it be for the purpose of ascertaining the spot where the river Sabine falls upon latitude thirty-two degrees north, and the line thence due north to the Red river, and the point of latitude forty-one degrees north on the ridge of the Snow mountains; to which appointment of commissioners this Government will readily agree.

The United States will agree to the proposal that the contracting parties shall mutually renounce all claims for damages or injuries which they, their citizens, or subjects, have received from each other, until the date of the treaty; it being understood that all grants of lands in any part of the territories to be ceded by Spain to the United States subsequent to the year 1802 are to be held null and void.

This renunciation on the part of the United States will be understood to extend—

1st. To all the cases provided for by the convention of 1802.

2d. To all cases of claims on account of captures by French privateers, and condemnations by French consuls, within the territorial jurisdiction of Spain.

3d. To all claims of indemnities, on account of the suspension of the right of deposit at New Orleans, in 1802.

4th. And to all claims of citizens of the United States upon the Government of Spain, statements of which, soliciting the interposition of the Government of the United States, shall have been, before the date of this treaty, and since the date of the convention of 1802, presented either to the Department of State of the United States, or to the Minister of the United States in Spain; but not to claims which the individuals of the United States may have against those of Spain, or against the Spanish Government, on any other account.

The United States will exonerate Spain from all demands in future on account of the above-mentioned claims, and undertake to make satisfaction for the same to an amount not exceeding five millions of dollars.

To ascertain the full amount and validity of those claims, a commission, to consist of three commissioners, shall be appointed by the President of the United States, by and with the advice and consent of the Senate; which commission shall meet at Washington, and within the space of three years shall receive, examine, and decide upon the amount and validity of all claims coming within the descriptions above-mentioned. And the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice; the said documents to be specified when demanded at the instance of the said commissioners.

Your fifth proposition is, that the treaty of limits and navigation of 1795 shall remain in force in all and each of its articles, with the exception



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of that part of the fifteenth article which stipulates that the flag shall cover the property.

The 2d, 3d, 4th, 21st, and the second clause of the 22d articles of the treaty of 1795, have either received their entire execution, and can no longer be considered as remaining in force, or have been rendered inoperative by subsequent events. Whatever relates in them to limits or to the navigation of the Mississippi, has been extinguished by the cession of Louisiana to France, and by her to the United States; with the exception of the line between the United States and Florida, which will also be annulled by the cession of Florida, which you now propose. I am authorized to agree to the confirmation and recognition of all the remaining articles of that treaty as still in force, and to assent to the exception proposed by you of part of the fifteenth article, to this extent: that if, hereafter, either of the contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments recognise the same principle, and not of others.

Your sixth proposition is inadmissible. The United States do not know that any additional laws or declarations are necessary to secure the fulfilment, on the part of Spain, of her engagements in the treaty of 1795. Numerous and just as their complaints have been of the violations of that treaty, under the authority of Spain, they consider the Spanish Government fully competent to make reparation for them, and to secure the faithful observance of their engagements in future without new laws or declarations. Nor are they aware of any vague or arbitrary interpretation in any of the ports of this Union, by which, contrary to the laws of nations, or to the stipulations of the treaty of 1795, the law is eluded. The interpretation or construction given to the stipulations of the treaty of 1795 within the United States is subject to the decisions of the judicial tribunals of the United States, who are bound to consider all treaties as the supreme law of the land. Their proceedings are all public, and their decisions upon all questions of interpretation are recorded and published. In this there is surely nothing vague or arbitrary; nothing requiring new laws or declarations. Of the many complaints which you have addressed to this Government in relation to alleged transactions in our ports, the deficiency has been, not in the meaning or interpretation of the treaty, but in the proofs of the facts which you have stated, or which have been reported to you, to bring the cases of complaint within the scope of the stipulations of the treaty.

In consideration of the cession of the Floridas by Spain, to redress and cancel the claims of the United States and their citizens upon Spain, and always understood that the late grants of the lands for which the indemnity for those claims is to be sought shall be held null and void, the Government of the United States will certify that they have not received any compensation from France for the injuries suffered from French privateers, Consuls, and tribunals, on the coasts

and in the ports of Spain, and will present an authentic statement of the prizes made, and of their value, that Spain may avail herself of it in such manner as she may deem just and proper. Upon the basis offered by your propositions, modified conformably to the observations now submitted to you, I am authorized to conclude a treaty with you; but, as the session of Congress is at hand, I am directed to request your immediate and frank reply to this communication. The President is deeply penetrated with the conviction that further protracted discussion of the points at issue between our Governments cannot terminate in a manner satisfactory to them. From your answer to this letter, he must conclude whether a final adjustment of all our differences is now to be accomplished, or whether all hope of such a desirable result is, on the part of the United States, to be abandoned.

I pray you to accept the assurance of my distinguished consideration.

JOHN Q. ADAMS.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, November 16, 1818.

SIR: I have attentively perused the note of the 31st of October last, which you addressed to me by order of your Government, in answer to mine of the 24th of the same month, by which I perceive that you have received the President's orders not to take into consideration the legal titles and grounds on which Spain rests her rights and claims to the sovereignty of the territories and waters claimed by your Government as forming an integral part of Louisiana, as it was retroceded by His Catholic Majesty to France in 1800, and sold or ceded by the Government of that nation to the United States in 1803. As these rights and claims rest on a basis as solid and as venerable as that which can be presented by the most equitable Government on earth to demonstrate its legitimate property to the country it possesses, I should be wanting in my duty were I not to maintain the same principles which I advanced in my former notes to you on this head. Being self-evident, they are as incontrovertible and invariable as the fundamental principles of universal justice. It is impossible to reject or impugn them without attacking those original and primitive titles which do, and ever have sanctioned, throughout the whole world, the rights of property and complete sovereignty enjoyed by all independent States and Kingdoms in their respective acquisitions. You assert the indisputable right of the United States to the river Mississippi. I say, and the fact is obvious, that even admitting your assertion in its fullest latitude, notwithstanding no argument has ever been advanced by the United States to establish it, and that it is contradicted by the most unquestionable documents and proof, the pretension to extend your claims beyond the Missouri would always be inconsistent and exorbitant. Even the absurd and extravagant grant of Louis XIV. to Crozat does not point out a greater extent, and respects

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the frontiers of New Mexico and other Spanish settlements and possessions, which existed long before the time that grant was made, and before the famous expedition of M. de la Salle. Keeping, therefore, in view the truth of facts, and the immutable principles of things, and endeavoring to reconcile them with the sincere and uniform desire of His Catholic Majesty to remove, on his part, the obstacles that have opposed the amicable adjustment of all existing differences between the two Powers, as far as is consistent with the rights and dignity of his Royal Crown, I will approximate my proposals, as nearly as is possible for me, to those you have made me on the part of your Government.

The first refers to the satisfaction due by the United States to His Catholic Majesty and to his subjects, in consequence of the invasion and capture of Pensacola and other forts and territories in the Floridas. You must be sensible that it is impossible for me to desist from the demand of a just and adequate reparation or indemnity to His Majesty and the inhabitants of both provinces, and particularly those of Pensacola, for all losses and injuries by them sustained from the officers and troops of the United States. No principle can be adduced to support or justify the hostile proceedings of General Jackson in Florida, marked as they are by a series of outrages unprecedented and unknown in history. The American commander, on that occasion, as your Government itself admits, acted contrary to the orders and instructions given to him. Public opinion in the United States has uniformly reprobated these excesses, as well as all the specious pretexts with which he has endeavored to gloss them over. The charges artfully produced against the Spanish commandants and officers are entirely frivolous, and are contradicted by the well-known truth of facts, and the formal declarations and statements of those same Spanish officers; so that, in every view of the case, the United States are in justice bound by the most solemn obligations to make satisfaction to the Crown and subjects of Spain for the said losses and injuries. The Spanish Government are in like manner entitled to the full amount of all revenue collected and received by the United States in the places and territories occupied by them in the said provinces; since, as the sovereignty of Spain is indisputable, she could in nowise be dispossessed of her right to receive her revenues; and this point was from that time reserved as an object of future discussion. I shall be happy to contribute as far as is in my power to this arrangement, and to the stipulation of a fair sum to be paid by the United States for all such damages, that all discussion may thus be speedily and amicably terminated.

My second proposal has been admitted by your Government, with this modification; that all grants and sales of lands made by His Catholic Majesty, or by lawful Spanish authorities in the Floridas, from the year 1802 to the present, shall be null and void. To this modification, in its absolute sense, I cannot assent, inasmuch as it is offensive to the dignity and inprescriptible rights

of the Crown of Spain, which, as the legitimate owner of both the Floridas, had a right to dispose of those lands as it pleased; and further, as the said modification would be productive of incalculable injury to the *bona fide* possessors, who have acquired, settled, and improved these tracts of land.

The extent of what I can agree to is, that the late grants made by His Majesty in the Floridas since the 24th of January last, the date of my first note announcing His Majesty's willingness to cede them to the United States, (the said grants having been made with a view to promote population, cultivation, and industry, and not with that of alienating them,) shall be declared null and void, in consideration of the grantees not having complied with the essential conditions of the cession, as has been the fact.

My third proposal refers to the boundary line to be established between the possessions of the Crown of Spain and those of the United States. Acceding, as far as is possible for me to do, to the modifications proposed by you, and with a view of offering to the United States an additional proof of my wish to remove existing difficulties, I will undertake to admit the river Sabine instead of the Mermento as the boundary between the two Powers, from the Gulf of Mexico, on condition that the same line proposed by you shall run due north from the point where it crosses the Rio Roxo (Red river) until it strikes the Mississippi, and extend thence along the middle of the latter to its source, leaving to Spain the territory lying to the right, and to the United States the territory lying to the left of the same.

What you add respecting the extension of the same line beyond the Missouri along the Spanish possessions to the Pacific ocean exceeds, by its magnitude and its transcendancy, all former demands and pretensions started by the United States. Confining myself, therefore, to the powers granted to me by my Sovereign, I am unable to stipulate anything on this point which may remain open for further negotiation, as I have no doubt of His Majesty's disposition to agree to the appointment of a joint commission to determine and establish the future boundaries from the source of the Mississippi to the north and west, in a manner conformably to the titles and documents of property and possession respectively exhibited. Leaving, therefore, this point unsettled, as I have just observed, I conceive that my proposal for the adjustment of boundaries will not be attended with any difficulty whatever.

My fourth proposal to your Government has for its object the renunciation by both Governments and nations of all claims for spoiliations respectively suffered by either of the two Powers or their subjects until the signing of the treaty. This proposal has been admitted by your Government, with the exception of such claims as American citizens may have on the subjects of His Catholic Majesty or on the Spanish Government, and which have not been laid before the Department of State of the United States, or their

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Minister at the Court of Spain. I have no hesitation in assenting to this exception, but it should be made reciprocal for the subjects of the Crown of Spain, who may be entitled to claims on American citizens, or on the Government of the United States, and which have not yet been presented in due form to His Majesty's Secretary of State, or his Minister near the United States. My proposal will thus be free from difficulty, and conform to the modifications you have suggested.

Nor do I find any difficulty in agreeing to the modifications you offer to my fifth proposal, and proceeding to the sixth, the object of which is to remedy the abuses and violations, repeated pernicious examples of which have occurred in different ports of this Republic, through the toleration and countenance given therein to piratical and privateering armaments, against the commerce and navigation of Spain. I observe you state that what I propose is inadmissible; but I have received orders from my Sovereign to insist on this point, and to claim of your Government such measures as are imperiously called for by the very nature of these abuses and violations, as they not only contravene the existing treaty, but are in direct opposition to the most respectable compacts founded on international and public law.

Whatever may be the forecast, wisdom, and justice conspicuous in the laws of the United States, it is universally notorious that a system of pillage and aggression has been organized in several ports of the Union against the vessels and property of the Spanish nation; and it is equally so that all the legal suits hitherto instituted by His Catholic Majesty's Consuls in the courts of their respective districts, for its prevention, or the recovery of the property when brought into this country, have been and still are completely unavailing. The artifices and evasions, by means of which the letter of the law has on these occasions been constantly eluded, are sufficiently known, and even the combination of interest in persons who are well known, among whom are some holding public offices. With a view to afford you and the President more complete demonstration of the abuses, aggressions, and piracies alluded to, I enclose you correct lists, extracted from authentic documents deposited in the archives of this legation, exhibiting the number of privateers or pirates fitted out in the United States against Spain, and of the prizes brought by them into the ports of the Union, as well as of those sent to other ports, together with the result of the claims made by Spanish Consuls in the courts of this country. Among them you will find the case of two armed ships, the *Horatio* and *Curiazo*, built at New York, and detained by His Majesty's Consul there, on the ground of their having on board thirty pieces of cannon concealed, with their carriages, and a crew of one hundred and sixty men; on which occasion it was pretended that it could not be proved that these guns were not an article of commerce, and they finally put to sea without them, the extraordinary number of officers and crew passing for passengers. The

number of privateers or pirates fitted out and protected in the ports of this Republic, as well as of the Spanish prizes made by them, far exceeds that contained in the within lists; but I only lay before your Government those of which I have certain and satisfactory proofs. The right of Spain to an adequate indemnity for all the spoliation committed by these privateers or pirates on the Crown and subjects of His Catholic Majesty is undeniable; but I now submit it to your Government only to point out the extreme necessity of putting an end to these continued acts of hostility and depredation, and of cutting short these enormous and flagrant abuses and evils, by the adoption of such effectual precautions and remedies as will put it out of the power of cupidity or iniquity to defeat or elude them. In vain should we endeavor amicably to settle and accommodate all existing differences, and thus establish peace and good understanding between the two nations, if the practice of these abuses, and the course of these hostilities and piracies on the commerce and navigation of Spain should, as heretofore, continue uninterrupted in the United States. From the tenor of the documents now enclosed, and of the reflections suggested by the very nature and state of things, the President cannot hesitate to assent to my proposal on this subject; and as the Congress is now in session, I feel assured that the proper opportunity is afforded for the adoption of the necessary measures I have alluded to, and which I solicit as an essential basis of securing and maintaining a mutual friendship and good understanding between the two nations.

My seventh proposal having likewise been accepted by your Government, I agree to what you propose in answer thereto.

If my proposals, thus modified, should be agreed to by your Government, I am ready to sign them, after they are corrected and reduced to proper form, and augmented by such others, although inferior and of minor importance, as are consequent upon them, and essential in giving due solidity to the inestimable blessings of peace and good understanding between the two Governments, and in avoiding every difficulty and disagreement in future between the individuals and authorities of either nation.

I flatter myself that, by what I have just submitted, I give you and every impartial person a convincing proof of the generosity, frankness, and good faith of His Catholic Majesty's Government in the present negotiation, and of my sincere and uniform desire to terminate it to the satisfaction of both Powers. I shall add that, relying on His Catholic Majesty's wish to see a final arrangement speedily and amicably effected, if it should be proposed only to draw the line from the point mentioned on the Red river (*Rio Roxo*) somewhat obliquely (*con alguna oblicuidad*) to the westward of the right line due north, which I offer as the boundary of the two countries, I shall not hesitate to take upon myself the arrangement upon this point; it being always understood that the proposed line shall strike the Missouri.

*Relations with Spain.*

Having thus approximated my proposals to the modifications offered by you, as closely as my duty and power permit me, I have to hope that they will be accepted by your Government, as they offer great sacrifices on the part of Spain in favor of the United States. But if, unfortunately, they should not, and the President should still insist on those which you communicated to me, as well as on the peremptory declaration that neither they nor the documents which I have offered to produce in support of the sovereignty of the Crown of Spain to all the territory claimed by the United States, can be further discussed, the only discretionary power left to me is to request of the President, in the name of my Sov-

ereign, that the negotiation, in its actual state, may be submitted to the decision of the great monarchs now assembled in Congress at Aix la Chapelle; in either of which cases, I will immediately despatch a courier to my Court with all necessary information for His Catholic Majesty, that His Majesty may decide on the measures most proper to be adopted on the occasion.

I trust that you will communicate to me the decision of the President. In the mean time, I offer you the renewed assurances of my respect and distinguished consideration.

God preserve you many years.

LUIS DE ONIS.

## Relations with Spain.

No. 1.					List of Spanish vessels captured by pirates and brought into the United States, stating the result or actual state of the claims made for their restitution to the lawful owners, with the cargoes brought in by some of them.				
Names of vessels.	Cargoes.	By whom captured.	Where arrived.	Issue or present state of claims.					
Ship Alerta, -	153 slaves, -	L'Epine privateer, -	New Orleans, -	Restored to the owners.					
Polacre San Francisco de Paula, -	Wine, brandy, &c. -	Felix privateer, -	New Orleans, -	Restored to the owners.					
Schooner Amable Maria, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.					
Schooner Cometa, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.					
Schooner Dorada, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.					
Schooner Caridad, -	Nothing, -	Barrataria privateers, -	New Orleans, -	These two vessels sold by orders of the admiralty court; proceeds ordered to be paid to the owners.					
Schooner Bolivar, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.					
Schooner Santa Rita, -	Colonial produce, -	Barrataria privateers, -	New Orleans, -	Court declared its incompetency to take cognizance; property retained by the pirates.					
Ship Junta Central, <i>alias</i> Bruch, -	Nothing, -	Carthagena privateer, -	New Orleans, -	Do. do do do					
H. C. M.'s corvette Indagadora, <i>alias</i> Cary Mary, -	Nothing, -	Decoyed on the Costa Firme, -	New Orleans, -	Amount of vessel and cargo ordered to be restored to the owners.					
Polacre Regla, -	Quicksilver, public & private property. -	Schooner Alerta, -	New Orleans, -	Court declared its incompetency to take cognizance; property retained by the pirates.					
Ship Cleopatra -	Wine, brandy, &c. -	Carthagena privateer, -	New Orleans, -	Ordered to be restored to the owners.					
Schooner Alerta, -	Wine and specie, -	Barrataria privateer, -	New Orleans, -	Ordered to be restored, but still pending.					
Schooner Estrella, -	Unknown, -	Barrataria privateer, -	New Orleans, -	Ordered to be restored, but still pending.					
Polacre Virgen del Mar, -	Unknown, -	Caraccas privateer, -	New Orleans, -	Ordered to be restored, but still pending.					
Schooner San Felipe, -	Unknown, -	Venezuela privateer, -	New Orleans, -	Ordered to be restored, but still pending.					
Schooner San Antonio, -	32 slaves, -	Venezuela privateer, -	New Orleans, -	Ordered to be restored, but still pending.					
Schooner Politana, -	109 slaves, -	Amelia privateer, -	Savannah, -	Depending.					
Brig Monserat, -	Unknown, -	Amelia privateer, -	Savannah, -	Depending.					
Brig Maria Francisca, -	Sugar, -	Amelia privateer, -	Savannah, -	Depending.					
Brig Concepcion, -	Wine, &c. -	Commodore Champlin, -	Savannah, -	Depending.					
Schooner Sirena, -	Unknown, -	Commodore Champlin, -	Savannah, -	Depending.					
San Jose Animas, -	Unknown, -	Galveston privateer, -	Charleston, -	Ordered to be restored to the owners.					
Schooner Camila, -	Unknown, -	Galveston privateer, -	Charleston, -	Ordered to be delivered to the owners.					
Schooner Isabelita, -	Nothing, -	Amelia privateer, -	Charleston, -	Depending.					
Schooner Pilotina, -	Slaves, -	Amelia privateer, -	Charleston, -	Depending.					
Polacre brig La Cruz de Mayo, -	Salt from Canaries, -	Brig Patriot, Taylor, -	Norfolk, -	Sold by order of the court; proceeds ordered to be paid to the owners.					
Ship Providencia, -	Home commodities, -	Mongore, Barnes, -	Norfolk, -	Depending.					
Brig Sereno, -	Sugar, -	Congreso, Almeyda, -	Baltimore, -	Depending.					
Schooner Intrepida, <i>alias</i> La Leona, -	Nothing, -	Congreso, Almeyda, -	New York, -	Depending.					
Schooner San Roman, -	Unknown, -	Congreso, Almeyda, -	Providence, R.I. -	Depending.					
Polacre Divina Pastora, -	Unknown, -	Mongore, -	Boston, -	Depending.					
Ship Industria, <i>alias</i> La Rafaela, -	Unknown, -	Congreso, Almeyda, -	Portland, -	Depending.					

WASHINGTON, November 16, 1918.

*Relations with Spain.*

## No. 2.

*List of vessels armed or equipped in the ports of the United States, or within their jurisdiction, agreeably to documents deposited in the archives of His Catholic Majesty's Minister, under my charge, to wit :*

Names of vessels.	Captains' names.	Ports of armament or equipment.	Destination.
Schooner L'Epine - - - - -	Belligne - -	New Orleans	Gulf of Mexico.
Schooner Felix - - - - -	Debray - -	New Orleans	Gulf of Mexico.
Schooner Petit Milan - - - - -	Amigory - -	New Orleans	Nautla.
Schooner Presidente - - - - -	La Maison - -	New Orleans	Nautla.
Schooner La Guerriere, <i>alias</i> La Creole - - - - -	Rartigne - -	New Orleans	
Pilot-boat La Couleuvre - - - - -	Drouet - -	New Orleans	
Pilot-boat Josephine - - - - -	Domingue - -	New Orleans	
Schooner Alerta, <i>alias</i> General Morelos - - - - -	Semet - -	Barrataria -	Gulf of Mexico.
Schooner Jupiter - - - - -	- - - -	Charleston -	Amelia Island.
Schooner Rebecca - - - - -	- - - -	Charleston -	Amelia Island.
Schooner Lovely Lydia - - - - -	Hodson - -	Philadelphia -	West Indies.
Schooner Hornet, <i>alias</i> Gernudis - - - - -	John Smith -	Philadelphia -	Atlantic.
Schooner Orb, <i>alias</i> Congreso de Buenos Ayres - - - - -	Joseph Almeyda -	Baltimore -	Coast of Spain.
Brig Calypso, <i>alias</i> Calipsou - - - - -	Thomas Boyle -	Baltimore -	Gulf of Mexico.
Brig Fourth of July, <i>alias</i> El Patriota - - - - -	Thomas Taylor -	Baltimore -	Coast of Cuba.
Brig Paz <i>alias</i> El Patriota - - - - -	Joseph Stafford -	Baltimore -	Coast of Spain.
Brig Mammoth of Balt., <i>alias</i> La Independencia del Sud - - - - -	James Chaytor -	Baltimore -	Coast of Spain.
Brig Clifton - - - - -	Davy - -	Baltimore -	Buenos Ayres.
Schooner Swift, <i>alias</i> Mongore - - - - -	James Barnes -	Baltimore -	Coast of Spain.
Schooner Spartan, <i>alias</i> Potosi - - - - -	John Chase -	Baltimore -	Coast of Spain.
Brig Regent, <i>alias</i> Tupacamaro - - - - -	Francis Mason -	Baltimore -	Coast of Spain.
Schooner Romp, <i>alias</i> Santafecino - - - - -	Fisk - -	Baltimore -	Norfolk.
Schooner Felix Cubana, <i>alias</i> Aret - - - - -	Revilla - -	Baltimore -	Port-au-Prince.
Schooner Young Spartan - - - - -	Moore - -	Baltimore -	Straits Bahama.
Brig True-blooded Yankee - - - - -	David Tewet -	New York -	Savannah.
Schooner Capelin, <i>alias</i> Artagas, <i>alias</i> Minerva - - - - -	Champlin -	New York -	Unknown.
Corvette Horatio - - - - -	Skinner - -	New York -	Buenos Ayres.
Corvette Curiazo - - - - -	Delana - -	New York -	Buenos Ayres.

WASHINGTON, November 16, 1818.

## No. 3.

*A summary statement of money and property taken out of Spanish vessels, known to have been brought into the United States in American vessels, and the privateers by which they were plundered; exhibiting the result or present state of the claims to obtain restitution thereof, to wit :*

At New Orleans. Restoration of seventy slaves of the cargo of the bark Volador, clandestinely conveyed there by the piratical captors, claimed and obtained by Don Vincente Ordozgoiti, of Pensacola.

At the same place. Certain property found on board a vessel abandoned by the American troops to the Barrataria pirates, claimed by Don Diego Morphy, Vice Consul, ordered to be delivered to him.

At the same place. Restoration of certain Spanish property, brought there in the Petit Milan privateer, claimed and obtained by the same Consul.

At the same place. Restoration of certain property, brought there by the Presidente privateer,

claimed and obtained by the same Consul, for account of the lawful owners.

At the same place. Restoration of thirteen casks of clothing, brought there by the American brig Alonzo from Galveston, and two hundred and eighty-five pieces of Madras handkerchiefs, claimed by His Majesty's Consul, Don Felipe Fatio, both still pending.

Claim by the same Consul of thirty boxes of sugar, brought to New Orleans from Galveston; result yet unknown.

Claim by the same of sundry merchandise, brought to New Orleans on board the Mount Vernon; not decided on.

At Charleston. Claim of property saved from the Spanish prize brig Jupiter, lost after capture by pirates at the entrance of that river; order for its restoration yet unknown.

In the year 1812, the Anglo-American privateer Revenge, Captain Butler, after having committed numerous acts of piracy, boarded, under English colors, the Spanish ship Iris, bound from Havana, or Carthagena, in South America, to Spain, with a cargo of fifty-five thousand dol-

*Relations with Spain.*

lars in specie, of provincial money, silver in bars, and other valuable articles. There exists almost positive proof that the captain of the *Revenge*, not satisfied with robbing the Spaniards of their property, endeavored to choke the pumps, and sink the ship, with all the crew. The captain and some of the crew were arrested, and confined in jail at Charleston; but, notwithstanding the satisfactory evidence produced by His Majesty's Consul on the trial, he was liberated, and only a thousand and some odd dollars, found on board the privateer, recovered. Don Felipe Aldaytarriaga, agent for the *Iris*, had recourse afterwards to the courts at Philadelphia, which confirmed the sentence of the court at Charleston, for the liberation of Captain Butler and his crew, freed the owners of the *Revenge* from all responsibility to the owners of the *Iris*, and even ordered the money found on board the *Revenge* to be restored to the crew. An official representation of this transaction was made to the President, but without effect.

Don Antonio Argote Villalobos, Consul at Charleston, and vested with full powers, claimed an obtained an attachment on one hundred and twenty boxes of sugar, fifty-five barrels of coffee, and four packages of white wax, brought there by the *Amelia Island* pirates, through St. Mary's, in Georgia; which claim is still pending.

Towards the close of the last year, the same Consul, through the medium of an agent despatched to St. Mary's, had an attachment laid on certain Spanish property brought there from *Amelia Island*, amounting to one hundred thousand dollars, among which was a quantity of snuff and cigars, public property, shipped on board the Spanish ship *Union Carmelita*, Captain Fs. Roura, captured by the insurgents; this case still pending.

At Norfolk. Claim by Don Pablo Chacou. Consul there, of money and property brought there by the privateer Potosi, *alias* the *Spartan*, of Baltimore, Captain John Chase, supposed to belong to the Spanish ship "*Ciencia*," captured by that privateer, on her passage from Havana to Cadiz; failed for want of evidence.

At the same place. Claim by Don Antonio Argote Villalobos, when Consul there, of a large sum of money, and eighty-seven ceroons of cochineal, mostly belonging to the Spanish vessels the *Santander* and the *Santisima Trinidad*, *alias* the *Manso*, captured by the privateers *Independencia del Sud* and the *Altavella*, *alias* the *Romp*, Captains Chaytor and Grennolds, on their passage from Vera Cruz to Havana; still pending.

At the same place. Claim by Don Pablo Chacou of the restitution of one hundred and ninety-three ceroons of barks, twenty-eight cases of extract of Brazil, and thirteen bags of cotton, on board the Venezuelan privateer the *America Libre*, *alias* the *Neptuno*, Captain Bernard, arrived from Margarita; restitution not obtained, as well from want of proof to identify the property, as the refusal of the authorities at Norfolk to attach it, agreeably to the demand of the Consul.

Don Pablo Chacou claimed and obtained an attachment on forty-seven boxes of white Havana sugar, arrived at Norfolk on board the American schooner *Atlantic*, Captain Butler, from Port-au-Prince, the said sugar having been taken from on board the Spanish brig *San Antonio* by the pirate called the *Invincible*; this suit still pending.

At Baltimore. Claim by Don Pablo Chacou, when Consul there, of the restitution of two cases of silks, declared to have been taken on the high seas, and two boxes of lace, brought in by the piratical schooner *Mongore*, Captain Barnes; failed for want of proof.

The American schooner *Remittance*, Captain Rogers, arrived at Baltimore from Port-au-Prince, with the following property, taken by the pirate Potosi, Captain John Chase, from on board the Spanish ship "*Ciencia*," captured on her voyage from Havana to Cadiz, namely: three cases of wrought plate, one of jewelry thirty-three bundles of cochineal, three of jalap, and various other valuable articles. Claim by Mr. Chacou of the restitution of this property to the lawful owners still pending.

At the same port of Baltimore arrived the brig *Hibernia*, with several bags of cotton and some coffee on board, taken by the pirate the *Patriota*, Captain Thomas Taylor, from a Spanish boat going to St. Jago de Cuba. Powers sent by the owners to a merchant at Baltimore, who lodged a claim without delay, but has yet obtained no decision in the case.

Into the same port of Baltimore the following property was brought on board the American schooner the *Evening Post*, Captain Williams, from Galveston, having been transhipped on board that vessel from the Spanish polacre *Santa Maria*, Captain Jose Fort y Blanch, captured by the pirate *Patriota*, Captain Stafford, to wit: one hundred and thirty-eight boxes of lump sugar, eighty-three ditto white, five half boxes of ditto, nine packages of cotton, and one hundred and twenty pieces Campeachy wood. This property was immediately secreted by the consignee, Mr. John Laborde, and escaped the search of the Consul, Don Joaquim Zamoramo, who took the necessary steps to have an attachment laid on it.

At the same port there arrived another schooner, the *Amatea*, Captain Forbes, from Galveston, with fifty-four boxes of white sugar, seventy-three ditto lump, and three hundred and fifty-nine hides, taken from on board the polacre *Santa Maria* by the pirate Stafford, and consigned to the said John Laborde, who, in consequence of the dilatory proceeding of the marshal of the district, found time to secrete them, and evade the attachment granted at the request of Mr. Consul Zamoramo.

The pirate *Patriota*, Captain Taylor, arrived in the Chesapeake, and privately landed above \$22,000 in gold, together with five slaves, taken from on board the Spanish schooner *San Miguel*, Captain Juan Velasquez, bound from Maracaibo to St. Jago de Cuba; and, notwithstanding every exertion used by Don J. Zamoramo to discover

*Relations with Spain.*

the place of deposit of the money and slaves, his search proved fruitless.

The same pirate, the Patriota, commanded by Captain Stafford, attempted, on another occasion of his arriving in the Chesapeake, privately to land five hundred boxes of sugar, taken from on board the polacre Santa Maria, but was able to land only forty-five, which were seized and condemned by the custom-house at Baltimore. The efforts of the Consul to stop the privateer Patriota were rendered abortive by the misconduct of the marshal of the district.

The American schooner Harriet, Captain Southcomb, arrived at Baltimore from Galveston with the following property shipped on board her there, belonging to the aforesaid polacre Santa Maria, to wit: twenty-two boxes of white sugar, ten half boxes ditto, one hundred and nineteen boxes of powdered sugar, thirteen half boxes ditto, thirteen cases of wine, one ton of Campeachy wood, and twenty-five logs of mahogany. The whole claimed by Don Joaquim Zamoramo, and still pending.

The privateer St. Martin, Captain John Dieter, brought into Baltimore to the amount of \$11,000 in gold and silver, belonging, as has since appeared, to Don Cristoval Cruzat, merchant at Malaga, and taken from on board a polacre, also belonging to him, captured by the said privateer June 12, 1817. The Consul Zamoramo having been unable to trace this property, no recovery has been made.

The American schooner Hornet, Captain Ring, arrived at Baltimore from St. Mary's, in Georgia, with the following property, shipped at Amelia Island: one hundred and seventeen boxes of sugar, twenty-four ceroons of indigo, and a parcel of Campeachy wood, consigned to the said John Laborde; attachment on which could not be laid, the marshal's place then being vacant; and, before the aid of the sheriff could be brought in, Laborde found means to remove the whole.

The privateer Rio de la Plata, Captain Davy, landed at the same port the sum of \$8,000, the property of which could not be ascertained by Don Joaquim Zamoramo.

A vessel found deserted at the entrance of the Delaware, apparently a Spaniard, from her build and some remains of cargo. Claimed by Don Bdne. Renguenet, Consul at Philadelphia, on behalf of her lawful owners; affair still pending.

At Boston, Don Juan Stoughton attached a part of the cargo of the Spanish brig San Jose, captured by the pirate Romp, of Baltimore; and, although he obtained an order for her restitution to her owners, it has not yet been effected, owing to the absence of the district attorney.

The same Consul entered a claim at Boston for a part of the cargo of the brig Nuestra Señora del Buen Suceso, Captain Jose Roldam, captured by the pirate Rio de la Plata, Captain Davy, and carried into Marblehead by a fishing schooner. Claim still pending.

WASHINGTON, November 16, 1818.

*Extracts from the Buenos Ayres Gazette.*

[No. 43. Buenos Ayres Gazette, Saturday, November 1, 1817.]

*Account of the vessels sent in by privateers of this country for adjudication by the Prize Court charged therewith, to wit:*

No. 1. Ship Monserrat, captured August 13, 1815, by the privateer corvette the Zephir, Don Tomas Feles, commander; declared a good prize the 13th October following, and the cargo thereupon delivered to Don Guillermo G. Miller, agent.

No. 2. Schooner Divina Pastora, captured 14th September, 1815, by the same corvette and commander, informally declared bad prize on the 16th October, and, after regular proceedings, a good one on the 8th November, following; cargo delivered to the order of the commander, Don T. Feles.

No. 3. June 18, 1816, arrived here ship Consequencia, captured by the privateer corvette the Alcon, commanded by sergeant-major Don Hipolito Buchard, in company with the ship Hercules and brig Trinidad, under the command of Colonel Guillermo Brown, and manned off Callao; declared good prize, together with the schooner Andaluz, arrived in October following; which sentences are in the possession of Don Leonardo Agrelo, notary, appointed in consequence of the circumstance which occurred after declaration.

[Gazette extraordinary, Buenos Ayres, Thursday, November 6, 1817.]

*Minute of the cargo of the Spanish prize ship Perla, from Cadiz, mounting 16 guns, brought into Valparaiso.*

412 rough boxes of ironmongery, steel, nails, and tin plates; 654 rough boxes of different articles; 385 casks of spirits; 80 small casks, contents unknown; 80 cakes of wax; 90 cases of stamped paper; 82 bales of linen; 32 boxes of tow linen; 6 bales of tow linen; 24 cases, (medinas;) 100 empty liquor cases.

VALPARAISO, October 8, 1817.

F. DE LA LASTRA.

A true copy:

GUIDO.

[No. 44. Buenos Ayres Gazette, Saturday, November 8, 1817.]

*Account of vessels sent in by privateers of this country for adjudication by the Prize Court, charged therewith, to wit:*

\* No. 4. Schooner Leona, captured 25th June, 1816, by the schooner privateer Congreso, Captain Jose Almeyda; declared good prize 31st August following; cargo ordered to be delivered to Don David Cortes De Forest, owner of said privateer.

\* No. 5. Brig San Andero, captured June 21, 1816, by the above privateer; declared good prize 30th September following; ordered to be delivered to De Forest.

\* No. 6. Ship Nuestra Señora de Gracia, alias La Atrevida, captured by the above privateer on the 24th June; declared good prize 29th October



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following; cargo ordered to be delivered to De Forest.

No. 7. Zebec San Jose y Animas, *alias* El Valiente, and brig Nuestra Señora del Rosario, captured by the schooner privateer Independencia, Captain Miguel Ferreres; the former on the 27th June, and the latter on the 12th August, 1816; declared good prizes on the 29th October; cargoes delivered to Don Juan Pedro Aguirre.

No. 8. October 29, 1816, goods and merchandise, brought in by the privateer schooner Congreso, Captain Almeyda, declared good prize; eight registers exhibited by him of vessels fallen in with on his cruise, to establish his claim to them as prizes. The said goods ordered to be delivered to De Forest.

\* No. 9. Ship Carlota, captured the 24th July, 1816, by the same privateer, (Congreso;) declared good prize 14th November; cargo delivered to De Forest.

\* No. 10. Brig San Buenaventura, *alias* Leonidas, captured 22d August, 1816, by the privateer Independencia del Sud, Capt. Don Diego Chaytor; declared good prize 24th November; cargo ordered to be delivered to Don Adam Guy, agent for said privateer.

\* No. 11. Brig Concepcion, captured the 25th August, 1815, by the same privateer, (Independencia del Sud;) declared good prize 24th November; cargo ordered to be delivered to the agent, Guy.

\* No. 12. Brig Sereno, captured by the schooner privateer Congreso, Captain Jose Almeyda; declared good prize the 1st February, 1818, at the instance of Don David Cortes De Forest; said vessel ordered to this port, but proceeded to North America, where ship and cargo are deposited.

\* No. 13. Brig Los Tres Amigos, captured by the same privateer; declared good prize the 1st February, 1818, at the instance of the aforesaid De Forest. Not arrived within these waters, and presumed to have borne away for a port in North America.

No. 14. Schooner Nuestra Señora del Carmer, *alias* La Antonia, captured 14th November by the privateer brig Montezuma, Captain Jorge Ross; declared good prize 27th February; cargo ordered to be delivered to the owner of the privateer, Don Jorge Macfarlane.

No. 15. Brig Carmer y Animas, captured off Cadiz by the same privateer; declared good prize 21st May last; cargo delivered to Macfarlane.

\* No. 16. Ship Triton, captured 25th January by the privateer brig Tupac-Amaru, Captain Marcena Monron; declared good prize the 17th April following; cargo ordered to be delivered to Don David Cortes De Forest.

\* No. 17. Brig Antrevido, captured by the privateer brig Independencia del Sud, Captain Diego Chaytor, 27th July last; declared good prize at the instance of Don David C. De Forest, agent for said privateer; ordered here, but carried into a port of England by the prize master.

No. 18. May 21st, goods proceeding from three prizes captured by the privateer brig Montezu-

ma, Captain George Ross; declared good prize; registers deposited by him; goods ordered to be delivered to the owner of the privateer, Don Jorge Macfarlane.

\* No. 19. Ship Ciencia, captured 5th October by the privateer schooner Potosi, Captain John Chace; declared good prize 21st May; vessel and cargo sold at Port-au-Prince; proceeds deposited till further advice from that Government.

\* No. 20. Ship Santander, *alias* Los Sontos Martires, captured 6th May by the privateer brig Invincible, David Jewett, commander and owner; declared good prize 29th August; cargo ordered to be delivered to Don David C. De Forest, agent.

\* No. 21. Poleacre Jita, captured 1st March by the aforesaid privateer, Captain David Jewett; declared good prize 15th September following.

No. 22. Ship Ferera, *alias* La Roig, captured 1st July by the privateers Independencia and San Martin; declared good prize 15th September; cargo ordered to be delivered to Adam Guy and John Higinbotham, agents.

[No. 46. Buenos Ayres Gazette, Saturday, November, 2, 1817.]

*Letter of the commander of the privateer Tucuman to the Minister at War.*

ARMED SCHOONER TUCUMAN,

at anchor off Teneriffe, Sept. 10, 1817.

SIR: I have the pleasure to inform you that I sailed on the 3d of June from New Orleans, with a Government commission, on a cruise, first off Havana, and thence off Cadiz, in which I captured twenty-four Spanish vessels, four of which were ordered to Buenos Ayres, one burnt, and the rest, being of little value, given up to the prisoners. On my cruise, I boarded 26 English, 24 American, 10 French, 2 Venezuela, 2 Portuguese, 1 Austrian, 2 Swedish, 1 Danish, 1 Genoese, and 24 Spanish vessels. I have the honor to be, &c.

GEORGE WILSON.

*Account of vessels sent in by privateers of this country for adjudication by the Prize Court charged therewith, continued, to wit:*

No. 23. Schooner Nuestra Señora de Mercedes, *alias* La Corsa, captured 29th June, by the two privateers above mentioned; declared good prize 20th September; cargo ordered to be delivered to the same agents.

No. 24. Ship Iris, captured 3d July by the privateer schooner Tucuman, Captain Don Franco. Tournier; declared good prize 25th September; cargo ordered to be delivered to Don Juan Pedro Aguirre, owner.

\* No. 25. Brig Sto. Cristo de la Salud, captured 17th June by the privateer schooner San Martin, Captain Isaac W. Martin; declared good prize 1st October; cargo ordered to be delivered to Don Juan Higinbotham, owner.

\* No. 26. Brig Teneriffe, captured 3d July by the privateer schooner Congreso, Captain Jose Almeyda; declared good prize 9th October; cargo ordered to be delivered to Don Juan Pedro Aguirre, owner.

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N. B. In like manner were adjudicated and condemned as good prizes the following vessels, viz:

Ship Nuestra Señora de los Dolores, *alias* Primavera, from Havana to Cadiz, captured by the privateer Independencia; case pending on a claim put in by Don Jose Maria de la Carrera, for amount of the vessel and freight.

Ship Nuestra Señora del Buen Suceso, *alias* La Esperanza, from Cadiz to Manilla, captured by the Independencia and Mongore privateers; cases now before your excellency, by appeal from the agents of both privateers, as to the portion they are to receive of the whole proceeds.

Signed by order of the Minister of State for the Department of War and the Marine.

JUAN JOSE DE ECHEVARRIA.

BUENOS AYRES, October 14, 1817.

*Account of vessels arrived here from sea, from the 13th instant to this date.*

18th. Prize polacre San Franco. de Asis, *alias* Los Dos Hermanos, from Havana to Cadiz, captured at Terceira by the national privateer schooner Congreso, Captain Ezra Drew, with a cargo of sugar and Campeachy wood, consigned to Don Juan Pedro Aguirre.

BUENOS AYRES, Nov. 20, 1817.—*Anesategui.*

[No. 47. Buenos Ayres Gazette, Saturday, November, 29, 1817.]

*Account of vessels arrived here from sea, from Thursday, the 20th, to this date.*

\* 22d. Spanish prize-ship Jesus, from Havana to Cadiz, captured 24th July last, off Terceira, by the national cruiser San Martin, Capt. Sprague, with a cargo of 628 pipes of brandy, and 34 boxes of sugar; consigned to Don Juan Higinbotham.

24th. Spanish prize-brig Gerona, captured 10th August last, off the Western islands, on her voyage from Havana to Malaga, by the national cruiser-brig Rio de la Plata, Captain Clemente B. Durell, with 1,157 boxes sugar, 20 bags coffee, 1,140 hides, 287 quintals Campeachy wood, and 6 logs of mahogany; consigned to Don Juan Higinbotham.

Same date. National cruiser schooner Congreso, Captain Jose Joaquin Almeyda, from a cruise off the Canary islands, which she left on the 18th ultimo, with 3 boxes, containing correspondence captured from the enemy; consigned to Don Juan Pedro Aguirre.

[No. 48. Buenos Ayres Gazette, Saturday, December 6, 1817.]

*Accounts of vessels arrived from sea, from Thursday, 27th ultimo, to this date.*

\* November 29. Spanish prize brig Sto. Cristo from Lima to Cadiz, captured 1st September off Santa Maria, Terceiras, by the national cruiser brig Tupac-Amaru, Captain Juan Magfudole, with a cargo of cotton, copper, Jesuit's bark, and cocoa; consigned to Don David C. De Forest & Co.

\* December 3. Prize ship Diana, Captain Jacobo Bartten, from Havana to Cadiz, captured

off the Balearic islands by the schooner privateer Congreso, with a cargo of sugar, coffee, cochineal, tortoise-shell, tarza, hides, and Campeachy wood; consigned to Don Juan Pedro Aguirre.

\* —. Prize brig Hermosa Maria, Captain Thomas Traske, from Laguayra to Cadiz, captured 4th October last, off Cape Santa Maria, by the schooner privateer Congreso; cargo, cotton and cocoa; consigned to Don Juan Pedro Aguirre.

\* —. Prize brig Beloz, from Barcelona to Cadiz, thence to Havana, captured off Cape Spartel by the schooner privateer Tucuman, Captain Williams; cargo, wine; consigned to Don David C. De Forest & Co.

—. Privateer schooner Tucuman, Captain Jorge Williams, from a cruise off Cadiz; left the 12th October last; cargo, wine and sundries; consigned to Don David C. De Forest & Co.

[No. 49. Buenos Ayres Gazette, Saturday, December 13, 1817.]

*Account of vessels arrived here from sea, from Thursday, the 4th instant, to this date.*

\* 6th. Spanish prize brig San Francisco de Paula, Captain Guillermo Barrs, from Vigo to Barcelona, captured 2d September last, off Cape Santa Maria, by the privateer schooner Congreso; cargo, 270 pressed bundles of Sardinias; consigned to Don Juan Pedro Aguirre.

\* Same date. Spanish prize brig Maria Josefa, Captain Julian Chevas, captured by the privateer schooner Tucuman off Cadiz; cargo, 150 casks of Sardinias, and 80 bundles of leather; consigned to Don David C. De Forest & Co.

[No. 51. Buenos Ayres Gazette, Saturday, December 27, 1817.]

*Account of vessels arrived here from sea, from Thursday, 18th instant, to this date.*

19th. Spanish prize ship Mariana, *alias* La Veloz, Captain Jose Miers, captured off Cadiz by the national cruiser schooner Congreso; cargo, 512 boxes white sugar, 349 powdered ditto, and 40 logs of mahogany; consigned to Don Juan Pedro Aguirre.

[No. 23. Buenos Ayres Gazette, Saturday, January 10, 1818.]

*Account of vessels arrived here from sea, from Thursday, 1st instant, to this date.*

5th. National cruiser El General San Martin, from a cruise off Cadiz; left 18th October last, having captured two Spanish ships, the Maria Josefa, *alias* La Veloz, and the Paraguay, both from Havana to Cadiz; cargoes, sugar, coffee, cocoa, and dye woods; consigned to Don Juan Higinbotham.

WASHINGTON, November 16, 1818.

*The Secretary of State to George W. Erving, Esq.*

DEPARTMENT OF STATE.  
Washington, November 28, 1818.

SIR: Your despatches to No. 92, inclusive, with their enclosures, have been received at this Department. Among these enclosures are the

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several notes addressed to you by Mr. Pizarro in relation to the transactions during the campaign of General Jackson against the Seminole Indians, and the banditti of negroes combined with them, and particularly to his proceedings in Florida without the boundaries of the United States.

In the fourth and last of these notes of Mr. Pizarro, he has given formal notice that the King, his master, has issued orders for the suspension of the negotiation between the United States and Spain until satisfaction shall have been made by the American Government to him for these proceedings of General Jackson, which he considers as acts of unequivocal hostility against him, and as outrages upon his honor and dignity; the only acceptable atonement for which is stated to consist in a disavowal of the acts of the American General thus complained of, the infliction upon him of suitable punishment for his supposed misconduct, and the restitution of the posts and territories taken by him from the Spanish authorities, with indemnity for all the property taken, and all damages and injuries, public or private, sustained in consequence of it.

Within a very few days after this notification, Mr. Pizarro must have received, with copies of the correspondence between Mr. Onís and this Department, the determination which had been taken by the President to restore the places of Pensacola, with the fort of Barancas, to any person properly authorized on the part of Spain to receive them, and the fort of St. Mark to any Spanish force adequate to its protection against the Indians, by whom its forcible occupation had been threatened for purposes of hostility against the United States. The officer commanding at the post has been directed to consider two hundred and fifty men as such adequate force, and, in case of their appearance with proper authority, to deliver it up to their commander accordingly.

From the last-mentioned correspondence, the Spanish Government must likewise have been satisfied that the occupation of these places in Spanish Florida by the commander of the American forces was not by virtue of any orders received by him from this Government to that effect, nor with any view of wresting the province from the possession of Spain, nor in any spirit of hostility to the Spanish Government; that it arose from incidents which occurred in the prosecution of the war against the Indians, from the imminent danger in which the fort of St. Mark was of being seized by the Indians themselves, and from the manifestations of hostility to the United States by the commandant of St. Mark's and the Governor of Pensacola, the proofs of which were made known to General Jackson, and impelled him, from the necessities of self-defence, to the steps of which the Spanish Government complains.

It might be sufficient to leave the vindication of these measures upon those grounds, and to furnish, in the enclosed copies of General Jackson's letters, and the vouchers by which they are supported, the evidence of that hostile spirit on

the part of the Spanish commanders, but for the terms in which Mr. Pizarro speaks of the execution of two British subjects taken, one at the fort of St. Mark, and the other at Suwanee, and the intimation that these transactions may lead to a change in the relations between the two nations, which is doubtless intended to be understood as a menace of war.

It may be, therefore, proper to remind the Government of His Catholic Majesty of the incidents in which this Seminole war originated, as well as of the circumstances connected with it in the relations between Spain and her ally, whom she supposes to have been injured by the proceedings of General Jackson; and to give to the Spanish Cabinet some precise information of the nature of the business, peculiarly interesting to Spain, in which these subjects of her allies, in whose favor she takes this interest, were engaged, when their projects of every kind were terminated in consequence of their falling into the hands of General Jackson.

In the month of August, 1814, while a war existed between the United States and Great Britain, to which Spain had formally declared herself neutral, a British force, not in the fresh pursuit of a defeated and flying enemy, not overstepping an imaginary and equivocal boundary between their own territories and those belonging, in some sort, as much to their enemy as to Spain, but approaching by sea, and by a broad and open invasion of the Spanish province, at a thousand miles or an ocean's distance from any British territory, landed in Florida, took possession of Pensacola and the fort of Barancas, and invited, by public proclamations, (document No. 1,) all the runaway negroes, all the savage Indians, all the pirates, and all the traitors to their country whom they knew or imagined to exist within reach of their summons, to join their standard, and wage an exterminating war against the portion of the United States immediately bordering upon this neutral and thus violated territory of Spain. The land commander of this British force was a certain Colonel Nicholls, who, driven from Pensacola by the approach of General Jackson, actually left to be blown up the Spanish fort of Barancas when he found it could not afford him protection; and, evacuating that part of the province, landed at another, established himself on the Appalachicola river, and there erected a fort from which to sally forth with his motley tribe of black, white, and red combatants against the defenceless borders of the United States in that vicinity. A part of this force consisted of a corps of colonial marines, levied in the British colonies, in which George Woodbine was a captain, and Robert Christie Ambrister was a lieutenant. (Nos. 2 b. 59, 60.)

As between the United States and Great Britain, we should be willing to bury this transaction in the same grave of oblivion with other transactions of that war, had the hostilities of Colonel Nicholls terminated with the war; but he did not consider the peace which ensued between the United States and Great Britain as having

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put an end, either to his military occupations, or to his negotiations with the Indians against the United States. Several months after the ratification of the Treaty of Ghent, he retained his post, and his party-colored forces in military array. By the ninth article of that treaty (No. 2 b.) the United States had stipulated to put an end, immediately after its ratification, to hostilities with all the tribes or nations of Indians with whom they might be at war at the time of the ratification, and to restore to them all the possessions which they had enjoyed in the year 1811. This article had no application to the Creek nation, with whom the United States had already made peace, by a treaty concluded on the 9th day of August, 1814, more than four months before the Treaty of Ghent was signed. Yet Colonel Nicholls not only affected to consider it as applying to the Seminoles of Florida, and the outlawed Red Sticks, whom he had induced to join him there, but actually persuaded them that they were entitled, by virtue of the Treaty of Ghent, to all the lands which had belonged to the Creek nation within the United States in the year 1811, and that the Government of Great Britain would support them in that pretension. He asserted (No. 2. a. c.) also this doctrine in a correspondence with Colonel Hawkins, then the agent of the United States with the Creeks, and gave him notice in their name, with a mockery of solemnity, (No. 9,) that they had concluded a treaty of alliance, offensive and defensive, and a treaty of navigation and commerce, with Great Britain, of which more was to be heard after it should be ratified in England. Colonel Nicholls then evacuated his fort, which, in some of the enclosed papers, is called the Fort at Prospect Bluff, but which he had denominated the British post on the Appalachicola; took with him the white portion of his force, and embarked for England with several of the wretched savages whom he was thus deluding to their fate, among whom was the prophet Francis or Hillis Hadjo, and left the fort, amply supplied with military stores and ammunitions, to the negro department of his allies. It afterwards was known by the name of the Negro Fort.

Colonel Hawkins immediately communicated to this Government the correspondence between him and Nicholls, here referred to, (copies of which, marked Nos. 1 to 5, are herewith enclosed,) upon which, Mr. Monroe, then Secretary of State, addressed a letter (No. 10) to Mr. Baker, the British Chargé d'Affaires at Washington, complaining of Nicholls's conduct, and showing that his pretence that the ninth article of the Treaty of Ghent could have any application to the Indians was utterly destitute of foundation. Copies of the same correspondence were transmitted to the Minister of the United States, then in England, with instructions (No. 11) to remonstrate with the British Government against these proceedings of Nicholls, and to show how incompatible they were with the peace which had been concluded between the two nations. These remonstrances were accordingly made, first in per-

sonal interview with Earl Bathurst and Lord Castlereagh, and afterwards in written notes addressed successively to them, (copies of which, [Nos. 12 a. b, 13 a. b.] together with extracts from the despatches of the American Ministers to the Secretary of State, reporting what passed at those interviews, are enclosed.) Lord Bathurst, in the most unequivocal manner, confirmed the facts, and disavowed the misconduct of Nicholls; declared his disapprobation of the pretended treaty of alliance, offensive and defensive, which he had made; assured the American Minister that the British Government had refused to ratify that treaty, and would send back the Indians whom Nicholls had brought with him, with advice to make their peace on such terms as they could obtain. Lord Castlereagh confirmed the assurances that the treaty would not be ratified; and if, at the same time that these assurances were given, certain distinctions of public notoriety were shown to the prophet Hillis Hadjo, and he was actually honored with a commission as a British officer, it is to be presumed that these favors were granted him as rewards of past services, and not as an encouragement to expect any support from Great Britain in a continuance of savage hostilities against the United States; all intention of giving any such support having been repeatedly and earnestly disavowed.

The negro fort, however, abandoned by Colonel Nicholls, remained on the Spanish territory, occupied by the banditti to whom he had left it, and held by them as a post from whence to commit depredations, outrages, and murders, and as a receptacle for fugitive slaves and malefactors, (No. 14,) to the great annoyance both of the United States and of Spanish Florida. In April, 1816, General Jackson wrote a letter to the Governor of Pensacola, calling upon him to put down this common nuisance to the peaceable inhabitants of both countries. That letter, together with the answer of the Governor of Pensacola, (No. 15,) has already been communicated to the Spanish Minister here, and by him doubtless to his Government. Copies of them are, nevertheless, now again enclosed; particularly as the letter from the Governor explicitly admits that this fort, constructed by Nicholls in violation both of the territory and neutrality of Spain, was still no less obnoxious to his Government than to the United States; but that he had neither sufficient force nor authority, without orders from the Governor General of Havana, to destroy it. It was afterwards, (No. 23,) on the 27th of July, 1816, destroyed by a cannon shot from a gun vessel of the United States, which, in its passage up the river, was fired upon from it. It was blown up with an English flag still flying as its standard, and immediately after the barbarous murder of a boat's crew belonging to the Navy of the United States, by the banditti left in it by Nicholls.

In the year 1817, Alexander Arbuthnot, of the island of New Providence, a British subject, first appeared as an English trader in Spanish Florida, and as the successor of Colonel Nicholls in the employment of instigating the Seminole and out-

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lawed Red Sticks to Indian hostilities against the United States, by reviving the pretence that they were entitled to all the lands which had been ceded by the Creek nation to the United States in August, 1814. As a mere Indian trader, the intrusion of this man into a Spanish province was contrary to the policy observed by all the European Powers in this hemisphere, and by none more rigorously than by Spain, of excluding all foreigners from intercourse with the Indians within their territories. It must be known to the Spanish Government whether Arbuthnot had a Spanish license for trading with the Indians in Spanish Florida, or not; but they also know that Spain was bound by treaty to restrain by force all hostilities on the part of those Indians against the citizens of the United States; and it is for them to explain how, consistently with those engagements, Spain could, contrary to all the maxims of her ordinary policy, grant such a license to a foreign incendiary, whose principal if not his only object appears to have been to stimulate those hostilities which Spain had expressly stipulated by force to restrain. In his infernal investigations he was but too successful, (No. 49.) No sooner did he make his appearance among the Indians, accompanied by the prophet Hillis Hadjo, returned from his expedition to England, (No. 50,) than the peaceful inhabitants on the borders of the United States were visited with all the horrors of savage war—the robbery of their property, and the barbarous and indiscriminate murder of women, infancy, and age.

After the repeated expostulations, warnings, and offers of peace, through the Summer and Autumn of 1817, on the part of the United States, had been answered only by renewed outrages, and after a detachment of forty men, under Lieutenant Scott, (No. 51 *a.*) accompanied by seven women, had been waylaid and murdered by the Indians, (No. 61,) orders were given to General Jackson, and an adequate force was placed at his disposal to terminate the war. It was ascertained that the Spanish force in Florida was inadequate for the protection even of the Spanish territory itself against this mingled horde of lawless Indians and negroes; and, although their devastations were committed within the limits of the United States, they immediately sought refuge within the Florida line, and there only were to be overtaken. The necessity of crossing the line was indispensable; for it was from beyond the line that the Indians made their murderous incursions within that of the United States. It was there that they had their abode; and the territory belonged, in fact, to them, although within the borders of the Spanish jurisdiction. There it was that the American commander met the principal resistance from them; there it was that were found (No. 38) the still bleeding scalps of our citizens, freshly butchered by them; there it was that he released the only woman who had been suffered to survive the massacre of the party under Lieutenant Scott. But it was not anticipated by this Government that the commanding officers of Spain in Florida, whose especial duty it was, in

conformity to the solemn engagements contracted by their nation, to restrain by force those Indians from hostilities against the United States, would be found encouraging, aiding, and abetting them, and furnishing them supplies for carrying on such hostilities. The officer in command immediately before General Jackson was, therefore, specially instructed to respect, as far as possible, the Spanish authority, wherever it was maintained; and copies of those orders were also furnished to General Jackson, upon his taking the command.

In the course of his pursuit, as he approached St. Marks, he was informed direct from the Governor of Pensacola that a party of the hostile Indians had threatened to seize that fort, and that he apprehended the Spanish garrison there was not in strength sufficient to defend it against them. This information was confirmed from other sources, and, by the evidence produced upon the trial of Ambrister, is proved to have been exactly true. By all the laws of neutrality and of war, as well as of prudence and of humanity, he was warranted in anticipating his enemy by the amicable, and, that being refused, by the forcible occupation of the fort. There will need no citations from printed treatises on international law to prove the correctness of this principle. It is engraved in adamant on the common sense of mankind. No writer upon the laws of nations ever pretended to contradict it. None, of any reputation or authority, ever omitted to assert it.

At Fort St. Mark, Alexander Arbuthnot, the British Indian trader from beyond the seas, the firebrand by whose touch this negro-Indian war against our borders had been rekindled, was found (No. 34) an inmate of the commandant's family; and it was also found that, by the commandant himself, councils of war had been permitted to be held within it by the savage chiefs and warriors; that the Spanish storehouses had been appropriated to their use; that it was an open market for cattle known to have been robbed by them from citizens of the United States, and which had been contracted for and purchased by the officers of the garrison; that information had been afforded from this fort by Arbuthnot to the enemy of the strength and movements of the American army; that the date of departure of express had been noted by the Spanish commissary; and ammunition, munitions of war, and all necessary supplies furnished to the Indians.

The conduct of the Governor of Pensacola was not less marked by a disposition of enmity to the United States, and by an utter disregard to the obligations of the treaty, by which he was bound to restrain, by force, the Indians from hostilities against them. When called upon to vindicate the territorial rights and authority of Spain, by the destruction of the negro fort, his predecessor had declared it to be not less annoying and pernicious to the Spanish subjects in Florida than to the United States, but had pleaded his inability to subdue it. He himself had expressed his apprehensions that Fort St. Mark would be forcibly taken by the savages from its Spanish gar-

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ri-son; yet, at the same time, he had refused the passage up the Escambia river, unless upon the payment of excessive duties, to provisions destined as supplies for the American army, which, by the detention of them, was subjected to the most distressing privations. He had permitted free ingress and egress at Pensacola to the avowed savage enemies of the United States. Supplies of ammunition, munitions of war, and provisions, had been received by them from thence. They had been received and sheltered there from the pursuit of the American forces, and suffered again to sally thence, to enter upon the American territory, and commit new murders. Finally, on the approach of General Jackson to Pensacola, the Governor sent him a letter (No. 33) denouncing his entry upon the territory of Florida as a violent outrage upon the rights of Spain, commanding him to depart and withdraw from the same, and threatening, in case of his non-compliance, to employ force to expel him.

It became, therefore, in the opinion of General Jackson, (No. 54,) indispensably necessary to take from the Governor of Pensacola the means of carrying his threat into execution. Before the forces under his command, the savage enemies of his country had disappeared. But he knew that the moment those forces should be disbanded, if sheltered by Spanish fortresses, if furnished with ammunition and supplies by Spanish officers, and if aided and supported by the instigation of Spanish encouragement, as he had every reason to expect they would be, they would reappear, and, fired, in addition to their ordinary ferociousness, with revenge for the chastisement they had so recently received, would again rush with the war-hatchet and the scalping-knife into the borders of the United States, and mark every footstep with the blood of their defenceless citizens. So far as all the native resources of the savage extended, the war was at an end; and General Jackson was about to restore to their families and their homes the brave volunteers who had followed his standard, and who had constituted the principal part of his force. This could be done with safety, leaving the regular portion of his troops to garrison his line of forts, and two small detachments of volunteer cavalry to scour the country round Pensacola, and sweep off the lurking remnant of savages who had been scattered and dispersed before him. This was sufficient to keep in check the remnant of the banditti against whom he had marched, so long as they should be destitute of other aid and support. It was, in his judgment, not sufficient, if they should be suffered to rally their numbers under the protection of Spanish forts, and to derive new strength from the impotence or the ill-will against the United States of the Spanish authorities.

He took possession, therefore, of Pensacola and of the fort of Barancas, as he had done of St. Mark, not in a spirit of hostility to Spain, but as a necessary measure of self-defence; giving notice that they should be restored whenever Spain should place commanders and a force

there able and willing to fulfil the engagements of Spain towards the United States, or of restraining by force the Florida Indians from hostilities against their citizens. The President of the United States, to give a signal manifestation of his confidence in the disposition of the King of Spain to perform with good faith this indispensable engagement, and to demonstrate to the world that neither the desire of conquest, nor hostility to Spain, had any influence in the councils of the United States, has directed the unconditional restoration, to any Spanish officer duly authorized to receive them, of Pensacola and the Barancas, and that of St. Mark's, to any Spanish force adequate to its defence against the attack of the savages. But the President will neither inflict punishment, nor pass a censure upon General Jackson, for that conduct, the motives for which were founded in the purest patriotism; of the necessity for which he had the most immediate and effectual means of forming a judgment; and the vindication of which is written in every page of the law of nations, as well as in the first law of nature—self-defence. He thinks it, on the contrary, due to the justice which the United States have a right to claim from Spain, and you are accordingly instructed to demand of the Spanish Government that inquiry shall be instituted into the conduct of Don Jose Mazot, Governor of Pensacola, and of Don Francisco C. Luengo, commandant of St. Mark's, and a suitable punishment inflicted upon them, for having, in defiance and violation of the engagements of Spain with the United States, aided and assisted these hordes of savages in those very hostilities against the United States which it was their official duty to restrain. This inquiry is due to the character of those officers themselves, and to the honor of the Spanish Government. The obligation of Spain to restrain, by force, the Indians of Florida from hostilities against the United States and their citizens, is explicit, is positive, is unqualified. The fact that, for a series of years, they have received shelter, assistance, supplies, and protection, in the practice of such hostilities, from the Spanish commanders in Florida, is clear and unequivocal. If, as the commanders both at Pensacola and St. Marks have alleged, (Nos. 32, 42,) this has been the result of their weakness rather than of their will; if they have assisted the Indians against the United States to avert their hostilities from the province which they had not sufficient force to defend against them, it may serve in some measure to exculpate, individually, those officers; but it must carry demonstration irresistible to the Spanish Government, that the right of the United States can as little compound with impotence as with perfidy, and that Spain must immediately make her election, either to place a force in Florida adequate at once to the protection of her territory, and to the fulfilment of her engagements, or cede to the United States a province, of which she retains nothing but the nominal possession, but which is, in fact, a derelict, open to the occupancy of every enemy, civilized or

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savage, of the United States, and serving no other earthly purpose than as a post of annoyance to them.

That the purposes, as well of the negro-Indian banditti, with whom we have been contending, as of the British invaders of Florida, who first assembled and employed them, and of the British intruding and pretended traders, since the peace, who have instigated and betrayed them to destruction, have been not less hostile to Spain than to the United States, the proofs contained in the documents herewith enclosed are conclusive. Mr. Pizarro's note of 29th August speaks of His Catholic Majesty's profound indignation at the "sanguinary executions on the Spanish soil of the subjects of Powers in amity with the King;" meaning Arbuthnot and Ambrister. Let Mr. Pizarro's successor take the trouble of reading the enclosed documents, (Nos. 49, 58,) and he will discover who Arbuthnot and Ambrister were, and what were their purposes; that Arbuthnot was only the successor of Nicholls, and Ambrister the agent of Woodbine, and the subaltern of McGregor. Mr. Pizarro qualifies General Jackson's necessary pursuit of a defeated savage enemy beyond the Spanish Florida line as a shameful invasion of His Majesty's territory. Yet that territory was the territory also of the savage enemy, and Spain was bound to restrain them by force from hostilities against the United States; and it was the failure of Spain to fulfil this engagement which had made it necessary for General Jackson to pursue the savage across the line. What, then, was the character of Nicholls's invasion of His Majesty's territory? And where was His Majesty's profound indignation at that? Mr. Pizarro says, His Majesty's forts and places have been violently seized on by General Jackson. Had they not been seized on, nay, had not the principal of his forts been blown up by Nicholls, and a British fort on the same Spanish territory been erected during the war, and left standing as a negro fort, in defiance of Spanish authority, after the peace? Where was His Majesty's profound indignation at that? Has His Majesty suspended formally all negotiation with the Sovereign of Colonel Nicholls for this shameful invasion of his territory, without color of provocation, without pretence of necessity, without shadow or even avowal of a pretext? Has His Majesty given solemn warning to the British Government that these were incidents "of transcendent moment, capable of producing an essential and thorough change in the political relations of the two countries?" Nicholls and Woodbine, in their invitations and promises to the slaves to run away from their masters and join them, did not confine themselves to the slaves of the United States. They received with as hearty a welcome, and employed with equal readiness, the fugitives from their masters in Florida as those from Georgia. Against this special injury the Governor of Pensacola did earnestly remonstrate with the British admiral, Cockburn. (See document marked No. 25.) But against the shameful invasion of the territory;

against the violent seizure of the forts and places; against the blowing up of the Barancas, and the erection and maintenance, under British banners, of the negro fort on Spanish soil; against the negotiation by a British officer, in the midst of peace, of pretended treaties, offensive and defensive, and of navigation and commerce, upon Spanish territory, between Great Britain and Spanish Indians, whom Spain was bound to control and restrain—if a whisper of expostulation was ever wafted from Madrid to London, it was not loud enough to be heard across the Atlantic, nor energetic enough to transpire beyond the walls of the palaces from which it issued, and to which it was borne.

The connexion between Arbuthnot and Nicholls, and between Ambrister, Woodbine, and McGregor, is established beyond all question, by the evidence produced at the trials before the court-martial. I have already remarked to you on the very extraordinary circumstance that a British trader from beyond the sea should be permitted by the Spanish authorities to trade with the Indians of Florida. From his letter to Hambly, dated 3d May, 1817, (see the document marked G, in the proceedings of the court-martial,) it appears that his trading was but a pretence, and that his principal purpose was to act as the agent of the Indians of Florida, and outlaws from the Creeks, to obtain the aid of the British Government in their hostilities against the United States. He expressly tells Hambly there that the chief of those outlaws was the principal cause of his (Arbuthnot's) being in the country, and that he had come with an answer from Earl Bathurst, delivered to him by Governor Cameron, of New Providence, to certain Indian talks, in which the aid of the British Government had been solicited.

Hambly himself had been left by Nicholls as the agent between the Indians and the British Government; but having found that Nicholls had failed in his attempt to prevail upon the British Government to pursue this clandestine war in the midst of peace, and that they were not prepared to support his pretence that half a dozen outlawed fugitives from the Creeks were the Creek nation; when Arbuthnot, the incendiary, came, and was instigating them, by promises of support from Great Britain, to commence their murderous incursions into the United States, Hambly, at the request of the chiefs of the Creeks themselves, wrote to him, (Nos. 47, 6,) warning him to withdraw from among that band of outlaws, and giving him a solemn foreboding of the doom that awaited him from the hand of justice if he persevered in the course that he pursued. Arbuthnot nevertheless persisted; and while he was deluding the wretched Indians with the promise of support from England, he was writing letters for them (No. 49 B C D E F) to the British Minister in the United States, to Governor Cameron, of New Providence, to Colonel Nicholls, to be laid before the British Government, and even to the Spanish Governor of St. Augustine, and the Governor General of the

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Havana, (H n. 2,) soliciting, in all quarters, aid and support, arms and ammunition, for the Indians against the United States, bewailing the destruction of the negro fort, and charging the British Government with having drawn the Indians into war with the United States, and deserting them after the peace.

You will remark among the papers produced on his trial, a power of attorney (No. 49 n. 1) dated June 17, 1817, given him by twelve Indians, partly of Florida, and partly of the fugitive outlaws from the United States. He states that his power and his instructions were to memorialize the British Government and the Governor General of the Havana. These papers are not only substantially proved as of his handwriting on the trial, but, in the daily newspapers of London of the 24th and 25th of August last, his letter to Nicholls (compare Nos. 47 a. and 49 F.) is published, (somewhat curiously garbled,) with a copy (No. 47 b.) of Hambly's above-mentioned letter to him, and a reference to this Indian power of attorney to him, (compare Nos. 47 c. and 49 n. 1,) approved by the commandant of St. Mark's, F. C. Luengo. Another of the papers is a letter written in the name of the same chiefs, by Arbuthnot, to the Governor General of the Havana, (No. 49 H.) asking of him permission for Arbuthnot to establish a warehouse on the Appalachicola, bitterly and falsely complaining that the Americans had made settlements on their lands within the Spanish lines, and calling upon the Governor General to give orders to displace them, and send them back to their own country. In this letter, they assign as a reason for asking the license for Arbuthnot, their want of a person to put in writing for them their talks of grievances against the Americans, and they add: "The commander of the fort of St. Mark has heard of all our talks and complaints. He approves of what we have done and what we are doing, and it is by his recommendation we have thus presumed to address your excellency." You will find these papers in the printed newspapers enclosed, and in the proceedings of the court-martial, and will point them out to the Spanish Government, not only as decisive proofs of the unexampled compliances of the Spanish officers in Florida to foreign intrusive agents and instigators of Indian hostilities against the United States, but as placing beyond a doubt that participation of this hostile spirit in the commandant of St. Mark's which General Jackson so justly complains of, and of which we have so well-founded a right to demand the punishment. Here is the commandant of a Spanish fort, bound by the sacred engagement of a treaty to restrain by force the Indians within his command from committing hostilities against the United States, conspiring with those same Indians, and deliberately giving his written approbation to their appointment of a foreigner, a British subject, as their agent to solicit assistance and supplies from the Governor General of the Havana, and from the British, for carrying on those same hostilities.

Let us come to the case of Ambrister. He was taken in arms, leading and commanding the Indians in the war against the American troops; and to that charge, upon his trial, pleaded guilty. But the primary object of his coming there was still more hostile to Spain than to the United States. You find (No. 58) that he told three of the witnesses who testified at his trial that he had come to this country upon Mr. Woodbine's business at Tampa bay, to see the negroes righted; and one of them, that he had a commission in the patriot army under McGregor, and that he had expected a captaincy. And what was the intended business of McGregor and Woodbine at Tampa bay? It was the conquest of Florida from Spain, by the use of those very Indians and negroes whom the commandant of St. Mark's was so ready to aid and support in war against the United States. The chain of proof that establishes this fact is contained in the documents communicated by the President to Congress at their last session, relating to the occupation of Amelia Island by McGregor. From these documents you will find (Nos. 56, 57 a.) that while McGregor was there, Woodbine went from New Providence in a schooner of his own to join him; that he arrived at Amelia Island just as McGregor, abandoning the companions of his achievement there, was leaving it; that McGregor, quitting the vessel in which he had embarked at Amelia, went on board that of Woodbine, and returned with him to New Providence; that Woodbine had persuaded him they could yet accomplish the conquest of Florida with soldiers to be recruited at Nassau from the corps of colonial marines which had served under Nicholls during the late war with the United States, which corps had been lately disbanded, and with negroes to be found at Tampa bay, and 1,500 Indians already then engaged to Woodbine, who pretended that they had made a grant of all their lands there to him. Among the papers, the originals of which are in our possession, are, in McGregor's own handwriting, instructions (No. 57 b.) for sailing into Tampa bay, with the assertion that he calculated to be there by the last of April or first of May of the present year; a letter (c) dated 27th December last, to one of his acquaintances in this country, disclosing the same intention; and the extract of a proclamation (d.) which was to have been issued at Tampa bay, to the inhabitants of Florida, by the person charged with making the settlement there before his arrival, announcing his approach for the purpose of liberating them from the despotism of Spain, and of enabling them to form a Government for themselves. He had persuaded those who would listen to him here that his ultimate object was to sell the Floridas to the United States. There is some reason to suppose that he had made indirect overtures of a similar nature to the British Government. This was Ambrister's business in Florida. He arrived there in March, the precursor of McGregor and Woodbine; and immediately upon his arrival he is found (No. 49) seizing upon Arbuthnot's goods, and distributing them among the negroes and In-



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dians; seizing upon his vessel, and compelling its master to pilot him, with a body of armed negroes, towards the fort of St. Mark, with the declared purpose of taking it by surprise in the night; writing letters to Governor Cameron, of New Providence, urgently calling for supplies of munitions of war and of cannon for the war against the Americans, and letters to Colonel Nicholls, renewing the same demands of supplies, informing him that he is with 300 negroes, "a few of our Bluff people," who had stuck to the cause, and were relying upon the faith of Nicholls's promises. "Our Bluff people" were the people of the negro fort, collected by Nicholls and Woodbine's proclamations during the American and English war; and "the cause" to which they stuck was the savage, servile, exterminating war against the United States.

Among the agents and actors of such virtuous enterprises as are here unveiled, it was hardly to be expected that there would be found remarkable evidences of their respect, confidence, and good faith towards one another. Accordingly, besides the violent seizure and distribution by Ambrister of Arbuthnot's property, his letters to Cameron and to Nicholls are filled with the distrust and suspicions of the Indians that they were deceived and betrayed by Arbuthnot; while, in Arbuthnot's letters to the same Nicholls, (No. 49 F) he accuses Woodbine of having taken charge of poor Francis the prophet, or Hillis Hadjo, upon his return from England to New Providence, and, under pretence of taking care of him and his affairs, of having defrauded him of a large portion of the presents which had been delivered out from the King's stores to him for Francis's use. This is one of the passages of Arbuthnot's letter (No. 47 a.) to Nicholls, omitted in the publication of it last August in the London newspapers.

Is this narrative of dark and complicated depravity; this creeping and insidious war, both against Spain and the United States; this mockery of patriotism; these political filters to fugitive slaves and Indian outlaws; these perfidies and treacheries of villains incapable of keeping their faith even to each other; all in the name of South American liberty, of the rights of runaway negroes, and the wrongs of savage murderers—all combined and projected to plunder Spain of her province, and to spread massacre and devastation along the borders of the United States—is all this sufficient to cool the sympathies of His Catholic Majesty's Government, excited by the execution of these two "subjects of a Power in amity with the King!" The Spanish Government is not at this day to be informed that, cruel as war in its mildest forms must be, it is, and necessarily must be, doubly cruel when waged with savages; that savages make no prisoners but to torture them; that they give no quarters; that they put to death, without discrimination of age or sex. That these ordinary characteristics of Indian warfare have been applicable, in their most heart-sickening horrors to that war left us by Nicholls as his legacy, reinstigated by Wood-

bine, Arbuthnot, and Ambrister, and stimulated by the approbation, encouragement, and aid of the Spanish commandant at St. Marks, is proof required? Entreat the Spanish Minister of State for a moment to overcome the feelings which details like these must excite; and to reflect, if possible, with composure, upon the facts stated in the following extracts from the documents enclosed:

Letter from sailingmaster Jairus Loomis to Commodore Daniel T. Patterson, 13th August, 1816, reporting the destruction of the negro fort. (No. 23.)

"On examining the prisoners, they stated that Edward Daniels, ordinary seaman, who was made prisoner in the boat on the 17th July, was *tarred and burnt alive.*"

Letter from Archibald Clarke to Gen. Gaines, 26th February, 1817. (Message from the President of the United States to Congress, 25th March, 1818.)

"On the 24th instant the house of Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, (Georgia,) was attacked, during his absence, near the middle of the day, by this party, (of Indians,) consisting of about fifteen, who shot Mrs. Garret in two places, and then despatched her by stabbing and scalping. Her two children, one about three years, the other two months, were also murdered, and the eldest scalped; the house was then plundered of every article of value, and set on fire."

Letter from Peter B. Cook (Arbuthnot's clerk) to Eliz. A. Carney, at Nassau, dated Suwanee, 19th January, 1818, giving an account of their operations with the Indians against the Americans, and their massacre of Lieutenant Scott and his party, (No. 61.)

"There was a boat that was taken by the Indians, that had in it thirty men, seven women, and four small children. There were six of the men got clear, and one woman saved, and all the rest of them got killed. The children were taken by the leg, and their brains dashed out against the boat."

If the bare recital of scenes like these cannot be perused without shuddering, what must be the agonized feelings of those whose wives and children are from day to day, and from night to night, exposed to be the victims of the same barbarity? Has mercy a voice to plead for the perpetrators and instigators of deeds like these? Should inquiry hereafter be made why, within three months after this event, the savage Hamathli-Meico, upon being taken by the American troops, was by order of their commander immediately hung, let it be told that that savage was the commander of the party by whom those women were butchered, and those helpless infants were thus dashed against the boat. Contending with such enemies, although humanity revolts at entire retaliation upon them, and spares the lives of their feeble and defenceless women and children, yet mercy herself surrenders to retributive justice the lives of their leading warriors taken in arms, and, still more, the lives of the foreign white incendiaries!

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who, disowned by their own Governments, and disowning their own natures, degrade themselves beneath the savage character by voluntarily descending to its level. Is not this the dictate of common sense? Is it not the usage of legitimate warfare? Is it not consonant to the soundest authorities of national law? "When at war, (says Vattel) with a ferocious nation which observes no rules, and grants no quarter, they may be chastised in the persons of those of them who may be taken; they are of the number of the guilty; and by this rigor the attempt may be made of bringing them to a sense of the laws of humanity." And again: "As a General has the right of sacrificing the lives of his enemies to his own safety, or that of his people, if he has to contend with an inhuman enemy, often guilty of such excesses, he may take the lives of some of his prisoners, and treat them as his own people have been treated." The justification of these principles is found in their salutary efficacy for terror and for example.

It is thus only that the barbarities of Indians can be successfully encountered. It is thus only that the worse than Indian barbarities of European impostors, pretending authority from their Governments, but always disavowed, can be punished and arrested. Great Britain yet engages the alliance and co-operation of savages in war; but her Government has invariably disclaimed all countenance or authorization to her subjects to instigate them against us in time of peace. Yet, so it has happened; that, from the period of our established independence to this day, all the Indian wars with which we have been afflicted have been distinctly traceable to the instigation of English traders or agents. Always disavowed, yet always felt; more than once detected, but never before punished; two of them, offenders of the deepest dye, after solemn warning to their Government, and individually to one of them, have fallen, *flagrante delicto*, into the hands of an American General; and the punishment inflicted upon them has fixed them on high, as an example awful in its exhibition, but, we trust, auspicious in its results, of that which awaits unauthorized pretenders of European agency to stimulate and interpose in wars between the United States and the Indians within their control.

This exposition of the origin, the causes, and the character of the war with the Seminole Indians and part of the Creeks, combined with McGregor's mock patriots and Nicholls's negroes, which necessarily led our troops into Florida, and gave rise to all those incidents of which Mr. Pizarro so vehemently complains, will, it is hoped, enable you to present other and sounder views of the subject to his Catholic Majesty's Government.

It will enable you to show that the occupation of Pensacola and St. Marks was occasioned neither by a spirit of hostility to Spain, nor with a view to extort prematurely the province from her possession; that it was rendered necessary by the neglect of Spain to perform her engagements of

restraining the Indians from hostilities against the United States, and by the culpable countenance, encouragement, and assistance given to those Indians, in their hostilities, by the Spanish governor and commandant at those places; that the United States have a right to demand, as the President does demand, of Spain the punishment of those officers for this misconduct; and he further demands of Spain a just and reasonable indemnity to the United States for the heavy and necessary expenses which they have been compelled to incur by the failure of Spain to perform her engagements to restrain the Indians, aggravated by this demonstrated complicity of her commanding officers with them in their hostilities against the United States; that the two Englishmen executed by order of General Jackson were not only identified with the savages, with whom they were carrying on the war against the United States, but that one of them was the mover and fomentor of the war, which, without his interference, and false promises to the Indians of support from the British Government, never would have happened; that the other was the instrument of war against Spain as well as the United States, commissioned by McGregor, and expedited by Woodbine, upon their project of conquering Florida with these Indians and negroes; that, as accomplices of the savages, and sinning against their better knowledge, worse than savages, General Jackson, possessed of their persons and of the proofs of their guilt, might, by the lawful and ordinary usages of war, have hung them both without the formality of a trial; that, to allow them every possible opportunity of refuting the proofs, or of showing any circumstance in extenuation of their crimes, he gave them the benefit of trial by a court martial of highly respectable officers; that the defence of one consisted solely and exclusively of technical cavils at the nature of part of the evidence against him, and the other confessed his guilt; finally, that, in restoring Pensacola and St. Marks to Spain, the President gives the most signal proof of his confidence that, hereafter, her engagement to restrain by force the Indians of Florida from all hostilities against the United States will be effectually fulfilled; that there will be no more murders, no more robberies, within our borders, by savages prowling along the Spanish line, and seeking shelter within it, to display in their villages the scalps of our women and children, their victims, and to sell, with shameless effrontery, the plunder from our citizens in Spanish forts and cities; that we shall hear no more apologies from Spanish governors and commandants of their inability to perform the duties of their office and the solemn contracts of their country—no more excuses for compliances to the savage enemies of the United States, from the dread of their attacks upon themselves—no more harboring of foreign impostors upon compulsion; that a strength sufficient will be kept in the province to restrain the Indians by force, and officers empowered and instructed to employ it effectually to maintain the good faith of the na-

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tion by the effective fulfilment of the treaty. The duty of this Government to protect the persons and property of our fellow-citizens on the borders of the United States is imperative—it must be discharged. And if, after all the warnings that Spain has had; if, after the prostration of all her territorial rights and neutral obligations by Nicholls and his banditti during war, and of all her treaty stipulations by Arbutnot and Ambrister, abetted by her own commanding officers, during peace, to the cruel annoyance of the United States; if the necessities of self-defence should again compel the United States to take possession of the Spanish forts and places in Florida, declare, with the frankness and candor that become us, that another unconditional restoration of them must not be expected; that even the President's confidence in the good faith and ultimate justice of the Spanish Government will yield to the painful experience of continual disappointment; and that, after unwearied and almost unnumbered appeals to them for the performance of their stipulated duties in vain, the United States will be reluctantly compelled to rely for the protection of their borders upon themselves alone.

You are authorized to communicate the whole of this letter, and the accompanying documents, to the Spanish Government.

I have the honor, &c.

JOHN Q. ADAMS.

G. W. ERVING, *Minister to Spain.*

*The Secretary of State to Don Luis De Onís.*

DEPARTMENT OF STATE,  
Washington, November 30, 1818.

SIR: I have had the honor of receiving your letter of the 16th instant, and am directed by the President to inform you that, in making to you the proposal contained in my letter of the 31st of last month, with regard to the western boundary between the United States and the bordering territory of Spain, it was with the view, by the magnitude of the sacrifice which it involved on the part of the United States, to manifest the deep solicitude which he felt in terminating, by a general adjustment of all the differences which have been so long in discussion between the two nations, a state of things so unpropitious to the good understanding between them, and so much to be regretted by both.

As it was believed this article could alone present an ultimate obstacle to the agreement thus earnestly desired, I was directed frankly to present you at once the utmost extent to which the Government of the United States felt itself warranted, consistently with its duties to the rights and interests of the nation, to concede, of those unquestionable rights, to accommodate the wishes and to quiet the pretensions of your Sovereign; but, in yielding thus much, you were explicitly notified that the proposition was final, and that upon your acceptance of it depended the only remaining hope, in the mind of the President, of a

termination to this negotiation satisfactory to both parties.

As you have now declared that you are not authorized to agree, either to the course of the Red river (Rio Roxo) for the boundary, or to the forty-first parallel of latitude, from the Snow mountains to the Pacific ocean, the President deems it useless to pursue any further the attempt at an adjustment of this object by the present negotiation. I am therefore directed to state to you that the offer of a line for the western boundary, made to you in my last letter, is no longer obligatory upon this Government.

Reserving, then, all the rights of the United States to the ancient western boundary of the colony of Louisiana by the course of the Rio Bravo del Norte, I am yet authorized to conclude a convention or treaty with you upon the other subjects of existing difference. But it is proper, in the first instance, and in reference to the first of the propositions made by you on the 24th of last month, to correct an erroneous impression which you entertain, and which is certainly not warranted by any communication which you have received from this Government. You have been informed that the contingencies upon which General Jackson adopted those measures, which you represent as hostilities and outrages, not having been anticipated, had been provided for in his instructions; that they were unforeseen emergencies upon which, judging measures of energy necessary he had resorted to them upon his own responsibility, and upon motives which he had himself explained; that these measures were dictated by the hostile spirit, not of the American commander against Spain, but of the Spanish commanders against the United States. I informed you that the President of the United States had directed that the proofs of this hostility to the United States of these Spanish officers, furnished by General Jackson, should be embodied and presented to the Government of His Catholic Majesty, with a demand that the misconduct of those officers should be suitably punished. I have now the honor of stating to you that it has accordingly been done; that the proofs collected by General Jackson, together with other accumulating demonstration of the justice of his charges against Don Jose Mazot, Governor of Pensacola, and Don Francisco C. Luengo, Commandant of St. Mark's, have been forwarded to the Minister of the United States in Spain, with instructions to lay them before your Government, and to call for their just animadversion upon the violation, by those officers, of the solemn engagements of their country to the United States.

After a full and deliberate examination of these proofs, the President deems them irresistibly conclusive that the horrible combination of robbery, murder, and war, with which the frontier of the United States bordering upon Florida has for several years past been visited, is ascribable altogether to the total and lamentable failure of Spain to fulfil the fifth article of the treaty of 1795, by which she stipulated to restrain, by force,

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her Indians from hostilities against the citizens of the United States. Without adverting to the transactions of the late war between the United States and Great Britain, who can mistake the character of the fact that a fort on Spanish soil was garrisoned by hundreds of negroes and Indians, with an English banner flying upon its wall, for the desolation of the American border; and that, sixteen months after the peace of America and of England, the Governor of Pensacola, called upon by General Jackson to break up this lair of human tigers, pleaded his inability, and want of orders from his Governor General, to comply with the request? Who can mistake the character of the fact, that, six months after the stronghold of these savage banditti had been blown up by a shot from an American gun-vessel, a pretended Indian trader, foreigner both to Florida and to Spain, was permitted to come into a Spanish province, there to bribe the savages by presents, and to stimulate them by the grossest falsehoods and absurdest misrepresentations to war against the Americans? Do the Governors of Florida, the instant they learn the appearance of this intruding incendiary within their jurisdiction, seize and imprison him? Do they even command him to depart from the province? Nay, do they so much as require him to obey the laws and respect the engagements of their nation, and the duties of their stations? Far from it. Alexander Arbuthnot, a British subject from the island of New Providence, lands in the Spanish province of Florida, and there opens a warehouse for traffic with the Indians; by whose license or permission? It has not been the custom of Spain to allow the subjects of foreign Powers to intrude upon her colonial possessions; and more than one American citizen is, at this moment, pining, in the dungeons of Spain for having set his foot upon her soil; by whose permission, then, was Arbuthnot allowed to intermeddle in the province of Florida, even had it been only for the purpose of innocent trade with the Indians? Had he a license, or had, he not? If he had, it is for the governors of Florida to explain by whom and upon what motive it was granted. If he had not, it is for them to show why he was suffered, within their jurisdiction, to trample upon the laws of Spain with impunity. But innocent traffic was not the real purpose of Arbuthnot. He was there to stimulate as well the Indians of Florida as the fugitive outlaws from the Creek nation among them to war against the United States. He was goading them by the absurd pretence that the United States were bound by the Treaty of Ghent to give up to them the lands within the borders of the United States which had been ceded by the Creek nation to the United States six months before the Treaty of Ghent was signed. With the profoundest treachery to those Indians themselves, he was promising them that the British Government would support them in this pretence, and was writing letters to the Governor of New Providence, to the British Minister here, and through Colonel Nicholls, in England, to the British Government,

soliciting arms and ammunition for war against the United States. Nor was this all. He obtained from a number of Indian chiefs a power of attorney authorizing him to write letters and deliver talks in their name and behalf; and to the copy of that power, transmitted by him to England to be laid before the British Government, were affixed the signature and *approbation* of F. C. Luengo, commandant of St. Marks. By virtue of the same power, he wrote, in the name of those Indians, a letter to the Governor General of the Havana, falsely pretending that the Americans were settling upon their lands, within the Spanish territory, and calling upon him for force to drive them out. This letter, too, asserts that its contents were sanctioned by the approbation of the commandant of St. Marks.

Arbuthnot was taken by General Jackson at St. Marks, and was then an inmate of the family of the commandant. Among his papers was found a letter from the commandant, written shortly before, styling him his *friend*, giving him notice of the approach of the American force, and advising him to come and provide for the safety of his *little affairs*, and hold consultation with him upon subjects which could not with prudence be committed to writing. What consciousness of participation in the abominable purposes of Arbuthnot is betrayed in those few words! What were those common concerns of an English Indian trader and of the Spanish commandant of a fort, which required so thick a veil of mystery to conceal them from detection that this officer should be afraid to expose them to the possibility of discovery by committing them to paper? They were, that St. Marks was the centre of Arbuthnot's intrigues with the Indians against the United States; that councils of the hostile Indians were held at the commandant's quarters, at which he personally attended; that white men, Spanish subjects, inhabitants of Florida, had been taken prisoners by the Indians, under the influence and by the direction of Arbuthnot; reserved by the Indians for torture; delivered as prisoners to the custody of the commandant of St. Marks; received by him as prisoners, and held as such until delivered by General Jackson's approach to that place. They were, in fine, that St. Marks had, in substance, become an Indian fort under a Spanish standard; and to such an extent did the commandant countenance the savages in their depredations upon the borders of the United States, that he actually contracted with some of them to purchase cattle to be robbed by them from the citizens of Georgia, actually purchased them after they had been robbed, and actually sold them as his private property to the purveying officers of General Jackson's army after he took possession of the fort.

It is to the artifices and instigations of Arbuthnot, thus, to say the least, tolerated by the Governor of Pensacola, and thus aided and abetted by the commandant of St. Marks, that this war with the Seminole Indians has been due. But for them it would undoubtedly never have happened. If no direct proof has appeared that the Governor

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of Pensacola was implicated in the criminal proceedings of Arbuthnot as the commandant of St. Mark's, ample evidence has been produced of his having aided, assisted, and sheltered the Indians; of his having, as long as he dared, furnished them with supplies, including munitions of war. And his hostility to the United States has been sufficiently manifested by his exposing their army to the danger of famine, from the impediments opposed by his orders to the passage up the Escambia river of their supplies. That he harbored one Indian chief hostile to the United States, and not even belonging to Florida, is apparent by the article of capitulation which he obtained in his favor. That he suffered another, George Perryman, to escape from Pensacola upon General Jackson's approach, and go to England, there to renew, if possible, the negotiations of the prophet Francis, is announced as a late article of news in the English journals. That a number of other Indians were enabled, by the assistance of officers under his command, to escape from Pensacola on the very day that it was taken by General Jackson, is proved by the certificates of several witnesses. And, lastly, he did not hesitate to write a letter to that commander, before he took Pensacola, threatening, in the event of his not withdrawing immediately from Florida, to resist what he termed his aggressions by force.

It is therefore to the conduct of her own commanding officers that Spain must impute the necessity under which General Jackson found himself of occupying the places of their command. Had the engagements of Spain been fulfilled, the United States would have had no Seminole war. Far, then, from being under obligation to indemnify the Crown of Spain for any losses which it may have sustained in consequence of this necessity, the United States are entitled to demand, and the Minister of the United States at Madrid has been instructed accordingly, that the Crown of Spain should indemnify them for the extraordinary and indispensable expenses which they have been compelled to incur by the prosecution of this war, which Spain was bound to prevent. The revenue collected in the places occupied is very far from being adequate to that object. As to the losses or injuries to the inhabitants, as private property, both at St. Mark's and Pensacola, has been inviolably respected, no injury can have happened to them for which the United States should be responsible.

With respect to the other articles suggested in your propositions of 24th October, and your observations upon the modifications to them, proposed by me, as well as to other objects of minor concernment, to which your last note alludes, I am not aware of any insuperable obstacle to our coming to an agreement upon them. Should your instructions authorize you to waive the further consideration of the two articles upon which I have now communicated to you the final determination of the President, and to proceed in the discussion of the rest, I shall be happy to confer with you verbally concerning them as soon as may suit your convenience. After the explicit

answer given you in my note of the 12th March last to your proposal of referring the differences between our Governments to the mediation of Great Britain, and the reasons there assigned for declining that overture, the offer which you make of referring them to the allied monarchs, whom you state to be now assembled at Aix-la-Chapelle, was not to be expected. As you have, however, thought proper to make it, I refer you to my above-mentioned note for the grounds upon which it is declined. If you do not feel yourself at liberty to proceed in the negotiation on the terms herein proposed, postponing the articles relative to the Western boundary, and the late transactions in Florida, I shall be ready, at your convenience, to exchange with you the ratifications of the convention of 1802.

I embrace with pleasure the occasion of renewing to you the assurances of my distinguished consideration.

JOHN QUINCY ADAMS.

*Extract of a letter from Mr. Adams to Mr. Erving, dated*

DEPARTMENT OF STATE,  
*Washington, December 2, 1818.*

On the 27th March last, the Spanish Minister here, Mr. Onis, addressed a letter to this Department, for the professed purpose of vindicating the character and conduct of the Spanish commanding officers in Florida, and of proving that they had invariably discharged their duties of friendly proceeding towards the United States, and the obligations of the treaty of 1795, by which Spain was bound to restrain, by force, the hostilities of her Indians in Florida against the United States. To this letter are annexed fourteen documents, the greater part of which consist of remonstrances, addressed during the late war between the United States and Great Britain to British officers, against their continual violations of the neutrality of the Spanish territory. It is not, however, to those documents, but to the two (numbered 13 and 14) as annexed to that letter, (Nos. 66, 67,) that I wish to invite your attention. No. 13 is the *translation* of a letter purporting to be from Bowlegs, one of the Seminole Indian chiefs, most inveterately hostile to the United States, to Don Jose Coppinger, Governor of St. Augustine. A translation! you will say. Why a translation; and from what language? Neither Governor Coppinger nor Mr. Onis has furnished the means of answering that question. They are furnished, however, by the papers of Arbuthnot, which fell into General Jackson's hands. The language was English, and the original was written by Arbuthnot. The draught was found among his papers, and was produced to the court martial upon his trial, (No. 49—No. 2.) We naturally suppose that Governor Coppinger, upon receiving a letter in English from a Seminole Indian chief, must have been surprised, unless he knew from whom and whence it came. The substance of his answer shows that he did know both whence it came and the character of him by

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whom it was written. By the copies of the two letters, which are enclosed, you will see in that of Bowlegs a part of the systematic intrigues of Arbuthnot to instigate as well the Spanish commanders in Florida as the savages against the United States; and, in that of Governor Coppinger, a direct declaration to the Indians that all his supposed cause of alarm and complaint proceed "from the information of persons in whom he ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing him and his people from their daily labor." After offering his own friendly advice, the Governor adds: "I am fearful, however, that the sentiments of those who come into the territory under the appearance of friendship, but with bad intentions, may influence your minds and obtain your confidence by their flattering representations." And, finally, he complains that two persons had lately presented themselves as commissioners of the English nation, and carried off several runaway negroes belonging to inhabitants of the province. It is apparent, from this letter, that Governor Coppinger was well informed of the operations of Arbuthnot and Woodbine, and that he saw them in their true colors. How, then, does it happen that, a year afterwards, the Spanish commandant at St. Mark's is found so entirely leagued with Arbuthnot as to sign his name to the approbation of a power of attorney, given to him by the hostile chiefs, to write letters and deliver talks in their names; to hold councils of war with them at his quarters; to hold as prisoners white persons, inhabitants of the province, taken by them; and to write a letter to Arbuthnot, asking him to come and confer with him upon subjects which could not be committed to paper? The original of that letter, which is in bad French, and in the handwriting of the commandant of St. Mark's, signed by him, is in our possession, (No. 48.) A copy of it is among the papers enclosed. We cannot doubt that the Spanish Government will consider it as a proof of the conspiracy of the commandant of St. Mark's, with Arbuthnot and the Indians, against the United States. Should he be put upon his trial, as you are instructed to demand, the original letter itself will be transmitted to be exhibited to the court.

It is to be observed that the original draught in Arbuthnot's handwriting of the letter from Bowlegs to Governor Coppinger differs in several paragraphs from the translation communicated by Mr. Onis as received by him from Governor Coppinger. The following passage particularly, which appears in the draught produced before the court-martial, is not in the translation furnished by Governor Coppinger: "The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the governors I shall always entertain the greatest regard; but for the people, they do not act so as to merit my esteem and protection." The remainder of the letter is nearly the same. We do not suppose that the omission was made by the Governor; but rather that Arbuthnot, yet uncer-

tain how such a reflection would be received, omitted it from the letter itself which was transmitted to the Governor.

The papers marked Nos. 62, 63, 64, and 68, are copies of originals, in the handwriting of Arbuthnot, taken with the rest of his papers, but not exhibited before the court-martial. The sheet of his journal is of some importance, as establishing his connexion and dissatisfaction with Woodbine. No. 65 is a letter from him, said to be to an officer of rank in England, (no doubt Nicholls,) dated January 30, 1818, only three months before he was taken.

The sheet of the journal shows that Arbuthnot arrived with Woodbine from New Providence at Suwanee about the last of October, 1816, and that they immediately commenced their operations with the Indians against the United States. Bowlegs's letter to Governor Coppinger is dated November 18 of that year, and apologizes for his not having sooner answered a letter of September, from the Governor, by the impossibility he had been under of finding a person to write the answer for him. Among other complaints against Woodbine in this journal, there is one, distinctly, that he had promised the savages assistance from the British Government, without authority, and by direct falsehood; and he expresses an apprehension that when the Indians find out that none of those promises are realized, their fury will fall upon himself.

## No. 1.

*Nicholls's Letter and Proclamation.*

HEADQUARTERS, PENSACOLA,  
August 31, 1814.

SIR: I have arrived in the Floridas for the purpose of annoying the only enemy Great Britain has in the world. As France and England are now friends, I call on you, with your brave followers, to enter into the service of Great Britain, in which you shall have the rank of *captain*. *Lands* will be given to you all, in proportion to your respective ranks, on a peace taking place; and I invite you out on the following terms: your property shall be guaranteed to you, and your persons protected. In return for which, I ask you to cease all hostilities against Spain or the allies of Great Britain. Your ships and vessels to be placed under the orders of the commanding officer on the station until the commander-in-chief's pleasure is known; but I guaranty their fair value at all events.

I herewith enclose you a copy of my proclamation to the inhabitants of Louisiana, which will, I trust, point out to you the honorable intentions of my Government. You may be a useful assistant to me in forwarding them; therefore, if you determine, lose no time. The bearer of this, Captain McWilliams, will satisfy you on any other points you may be anxious to learn, as will Captain Lockyer, of the *Sophia*, who carries him to you. We have a powerful reinforcement on the way here, and I hope to cut out some other work for the Americans than oppressing the inhabitants of Louisiana. Be expeditious on your

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resolves, and rely upon the veracity of your humble servant,

EDWARD NICHOLLS,  
*Lieut. Col. Com'g H. B. M.'s forces.*

To Monsieur LAFFITE,  
*or the Commandant at Barrataria.*

*By Lieutenant Colonel Edward Nicholls, commanding His Britannic Majesty's forces in the Floridas.*

Natives of Louisiana, on you the first call is made to assist in liberating from a faithless and imbecile Government your paternal soil. Spaniards, Frenchmen, Italians, and British, whether settled or residing for a time in Louisiana, on you I also call to aid me in the just cause. The American usurpation in this country must be abolished, and the lawful owners of the soil put in possession. I am at the head of a large body of Indians, well armed, disciplined, and commanded by British officers; a good train of artillery, with every requisite, seconded by the powerful aid of a numerous British and *Spanish squadron* of ships and vessels of war. Be not alarmed, inhabitants of the country, at our approach; the same good faith and disinterestedness which have distinguished the conduct of Britons in Europe accompany them here. You will have no fear of litigious taxes imposed on you for the purpose of carrying on an unnatural and unjust war; your property, your laws, the peace and tranquillity of your country, will be guaranteed to you by men who will suffer no infringement of theirs; rest assured that these brave men only burn with an ardent desire of satisfaction for the wrongs they have suffered from the Americans to join you in liberating these Southern frontiers from their yoke, and drive them into the limits formerly prescribed by my Sovereign. The Indians have pledged themselves in the most solemn manner not to injure in the slightest degree the persons or properties of any but enemies to their *Spanish or English fathers*. A flag over every door, whether Spanish, French, or British, will be a sure protection. Nor dare any Indian put his foot on the threshold thereof, under penalty of death from his own countrymen. Not even an enemy will an Indian put to death, except resisting in arms; and as for injuring helpless women and children, the red men, by their good conduct and treatment to them, will, if it be possible, make the Americans blush for their more than inhuman conduct lately on the Escambia, and within a neutral territory.

Inhabitants of Kentucky, you have too long borne with grievous impositions. The whole brunt of the war has fallen on your brave sons; be imposed on no more; but either range yourselves under the standard of your forefathers, or observe a strict neutrality. If you comply with either of these offers, whatever provisions you send down will be paid for in dollars, and the safety of the persons bringing it, as well as the free navigation of the Mississippi, guaranteed to you. Men of Kentucky, let me call to your view, and, I trust, to your abhorrence, the conduct

of those factions which hurried you into this cruel, unjust, and unnatural war. At a time when Great Britain was straining every nerve in the defence of her own, and the liberties of the world; when the bravest of her sons were fighting and bleeding in so sacred a cause; when she was spending millions of her treasure in endeavoring to pull down one of the most formidable and dangerous tyrants that ever disgraced the form of man; when groaning Europe was almost in her last gasp; when Britain alone showed an undaunted front, basely did these assassins endeavor to stab her from the rear. She has turned on them, renovated from the bloody but successful struggle. Europe is happy and free, and she now hastens justly to avenge unprovoked insults. Show them that you are not collectively unjust; leave that contemptible few to shift for themselves; let those slaves of the tyrant send an embassy to Elba, and implore his aid; but let every honest, upright American spurn them with merited contempt. After the experience of twenty-one years, can you any longer support those brawlers for liberty, who call it freedom, and know not when themselves are free? Be no longer their dupes; accept of my offer; everything I have promised in this paper I guaranty to you on the sacred honor of a British officer.

Given under my hand, at my headquarters, Pensacola, the 29th of August, 1814.

EDWARD NICHOLLS.

No. 2 a.

*Copy of a letter from Col. Nicholls to Col. Hawkins.*

APPALACHICOLA, April 28, 1815.

Being absent from this post when your letter of the 19th ultimo arrived, I take this opportunity to answer it. On the subject of the negroes lately owned by the citizens of the United States, or Indians in hostility to the British forces, I have to acquaint you that, according to orders, I have sent them to the British colonies, where they are received as free settlers, and lands given to them. The newspaper you sent me is, I rather think, incorrect; at all events, an American newspaper cannot be authority for a British officer. I herewith enclose you a copy of a part of the ninth article of the treaty of peace relative to the Indians in alliance with us; they have signed and accepted it as an *independent* people, solemnly protesting to suspend all hostilities against the people of the United States. Within these few days I have had a complaint from the Seminoles' chief, Bowlegs. He states that a party of American horse have made an incursion into the town, killed one man, wounded another, and stolen some of his cattle; also, that they have plundered some of his people on their peaceable way from St. Augustine. May I request of you to inquire into this affair, and cause justice to be done to the murderer, and have the cattle restored? I strictly promise you that, for any mischief done by the Creeks under me, I shall do all in my power to punish the delinquents, and have the property restored.

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The chiefs here have requested me further to declare to you that, in order to prevent any disagreeable circumstances from happening in future, they have come to a determination not to permit the least intercourse between their people and those of the United States. They have, in consequence, ordered them to cease all communication, directly or indirectly, with the territory or citizens of the United States; and they do take this public mode of warning the citizens of the United States from entering their territory, or communicating directly or indirectly with the Creek people. They also request that you will understand their territories to be as they stood in the year 1811. In my absence, I have directed First Lieutenant William Hamblly, the head interpreter, to communicate with you on any point relative to the Creeks; and I have given him my most positive orders that he shall at all times do his best to keep peace and good neighborhood between the Creeks and your citizens.

I am, sir, your very humble servant,  
**EDWARD NICHOLLS,**  
*Com'g British forces in Florida.*

No. 2 b.

[Paper enclosed in the above letter.]

*Part of the ninth article of the treaty of peace between His Britannic Majesty and the United States, relative to the Indians who have been in alliance with Great Britain, and in hostility with the U. States.*

The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore such tribes or nations, respectively, all the possessions, rights, and privileges which they may have enjoyed or been entitled to in 1811, previous to such hostilities: *Provided always*, That such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

We, the undersigned, chiefs of the Muscogee nation, declared by His Britannic Majesty to be a free and independent people, do, in the name of the said nation, agree to the ninth article of the treaty of peace between His Britannic Majesty and the United States; and we do further declare that we have given most strict and positive orders to all our people that they desist from hostilities of every kind against the citizens or subjects of the United States.

Given under our hands at the British fort on the Appalachicola, the 2d day of April, 1815.

HEPOAETH MEICO, his X mark.

CAPPACHIMICO, his X mark.

HOPOY MEICO, T. P., his X mark.

Witnesses:

ED. NICHOLLS, *Lt. Col. Com'g Indians.*

R. BANKS, *Com'g H. M. Brig Forward.*

G. WOODBINE, *Capt. 1st. brig. R. C. M.*

WM. HAMBLY, *Lt., and head interpreter.*

I certify, on honor, that this is a true copy of the original.

ELI LESTER,  
*U. S. Storekeeper, Fort Lawrence.*

No. 3.

*Colonel Nicholls to Colonel Hawkins.*

BRITISH POST, APPALACHICOLA RIVER,  
 May 12, 1815.

In my letter to you of the 28th ultimo, I requested you would be so good as to make inquiry into the murder and robberies committed on the Seminoles belonging to the chief called Bowlegs; at the same time declaring my determination of punishing, with the utmost rigor of the law, any one of our side who broke it. Of this a melancholy proof has been given, in the execution of an Indian of the Ataphalgo town, by Hothly Poya Tustunnuggee, chief of Ockmulgees, who found him driving off a gang of cattle belonging to your citizens; and for which act of justice I have given him double presents, and a chief's gun, in the open square before the whole of the chiefs, and highly extolled him. These, sir, are the steps I am daily taking to keep the peace with sincerity; but I am sorry to say the same line is not taken on your side, nor have you written to say what steps you are taking, or intend to take, to secure this mutual good. Since the last complaint from Bowlegs, I have had another from him, to say your citizens have again attacked and murdered two of his people; that they had stolen a gang of his cattle, but that he had succeeded in regaining them.

I asked him what proof they had of their being killed. They said they had found their bloody clothes in the American camp, which was hastily evacuated on their approach. Now, sir, if these enormities are suffered to be carried on in a Christian country, what are you to expect by showing such an example to the uncultivated native of the woods? (for savage I will not call them—their conduct entitles them to a better epithet.) I have, however, ordered them to stand on the defensive, and have sent them a large supply of arms and ammunition, and told them to put to death without mercy, any one molesting them; but at all times to be careful and not put a foot over the American line; in the mean time, that I should complain to you, that I was convinced you would do your best to curb such infamous conduct; also, that those people who did such deeds would, I was convinced, be disowned by the Government of the United States, and severely punished. They have given their consent to await your answer before they take revenge; but, sir, they are impatient for it, and, well armed as the whole nation now is, and stored with ammunition and provisions, having a stronghold to retire upon in case of a superior force appearing, picture to yourself, sir, the miseries that may be suffered by good and innocent citizens on your frontiers, and I am sure you will lend me your best aid in keeping the bad spirits in subjection. Yesterday, in a full assem-



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bly of the chiefs, I got them to pass a law for four resolute chiefs to be appointed in different parts of the nation, something in the character of our sheriffs, for the purpose of inflicting condign punishment on such people as broke the law; and I will say this much for them, that I never saw men execute laws better than they do. I am also desired to say to you, by the chiefs, that they do not find that your citizens are evacuating their lands, according to the ninth article of the treaty of peace, but that they were fresh provisioning the forts. This point, sir, I beg of you to look into. They also request me to inform you that they have signed a treaty of offensive and defensive alliance with Great Britain, as well as one of commerce and navigation, which, as soon as it is ratified at home, you shall be made more fully acquainted with.

I am, sir, your very humble servant,  
**EDWARD NICHOLLS,**  
*Com'g H. B. M. forces, Creek nation.*  
 To Colonel **BENJAMIN HAWKINS,**  
*Commanding at Fort Hawkins.*

No. 4.

*Colonel Hawkins to Colonel Nicholls.*

CREEK AGENCY, May 24, 1815.

On the 18th I had the pleasure to receive your communication of the 28th ultimo. I expected, from the tenor of your orders, which I conveyed to you from Admirals Cochrane and Cockburn, on the 19th of March, that you had left the Floridas ere this with the British troops under your command, and that Spain and the United States would have no more of British interference in the management of their Indian affairs. The newspaper I sent you was one in which the official acts of our Government are published. There could be no motive for falsification; your deeming it incorrect must have proceeded from a knowledge that your conduct, in relation to the negroes, was at variance with it. It would have been acceptable in the communication relative to the disposition of "the negroes taken from the citizens of the United States, or Indians in hostility to the British," to have received the number, particularly belonging to the latter. As peace is restored between Great Britain and the United States, I feel a reluctance to put on paper anything that may have the tendency to tarnish the British character, or that of any officer of its Government; but I owe it to the occasion to state the declaration of Captain Henry, that "the English are sent out by their great father and King to restore his Indian people to their lands, and we are desired by him not to take away their negroes, unless they freely give them to us, or sell them for money," is violated. It is proper, also, to add, I did not enrol any Indians into the service of the United States until after the negroes of Marshall, Stedham, and Kinnard, three half-breeds, were taken from them, by force or stratagem, by British officers. Your restriction, of the Captain's declaration, to negroes belonging to Indians friendly to Great Britain, if by that is meant Indians hos-

tile to the United States, is an erroneous one, as there is not one Creek who has negroes so situated.

The Creek chiefs (to use a courtly phrase) have just cause, at least, to say this is an "unjustifiable aggression." You having acted by orders, and it being now beyond your control, a remedy must and will be sought for elsewhere.

The documents you enclose, signed by three chiefs, purporting to be the agreement of the Muscogee nation to the ninth article of the treaty of peace, I shall lay before the chiefs of the nation, at a convention soon to be held at Coweta, and send you the result of their deliberations on it. The result of my reflections, with due deference, I give you, as on the envelope it purports to be *on his Britannic Majesty's service*. It is within my knowledge that one of the chiefs is a Seminole of East Florida, and has never resided in the United States; and that neither of the three has ever attended the national councils of the Creeks, or is in any way a part of their executive government. If the four witnesses had signed it as principals, and the three chiefs as witnesses, it would have been entitled to equal respect from me.\* Could you be serious in communicating such a nullity with their mock determination not to permit the least intercourse between their people (meaning the Creek nation) and those of the United States? &c. As to the territory of the Seminoles, it being out of the United States, it is an affair between them and the Government of Spain; and that of the Creeks is as fixed and guaranteed in their treaty stipulations with the States. I do not know that any occurrences can happen which will render it necessary for me to communicate with Lieutenant William Hambly. If by doing so I can render acts of kindness to Indians or others, it would afford me pleasure; but, under present impressions, the fifth article of the treaty of friendship, limits, and navigation between the United States and the King of Spain will govern me in all cases respecting the Indians in the two Floridas.

I am, with due regard, sir, your ob'dt servant,  
**BENJAMIN HAWKINS.**

No. 5.

*Colonel Hawkins to Colonel Nicholls.*

CREEK AGENCY, May 28, 1815.

On the 24th I wrote to you in reply to yours of the 28th ultimo, and since have had the pleasure to receive yours of the 12th. I had received from Bowlegs, direct, a complaint of an outrage committed "by the people of Georgia, who had gone into East Florida, driven off his cattle, and destroyed his property." I have sent this complaint to the Governor of Georgia, who will readily co-operate with the officers of the General Government to cause justice to be done to the injured, if the complaint is true. The laws of the United States provide completely for the protection of

The witnesses, we believe, were Colonel Nicholls, Captain Woodbine, Lieutenant Hambly, and Captain Henry.

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the Indian rights, and those intrusted with their execution have the power of doing it. All that is wanted is a proof against the transgressors.

The Indians of Aulotchan, who, without provocation, murdered and plundered a number of the subjects of Spain on St. John's, have engendered such a deadly feud between the parties that it will be long before the descendants of the injured can forget and forgive. Spain, from her internal commotions, has not found it convenient to settle a peace between them; and these people, it is probable, are taken for Georgians. The Indians of this agency, as well as those in the Floridas, have long known they have to apply through their chiefs to me for a redress of their grievances. The government of the Creeks is not an ephemeral one. Its last modification is of more than ten years standing. It was the work and choice of the nation, and has a check on the conduct of the Seminoles.

In 1799 a gentleman arrived where you are from England, who had been an officer on half pay. He came in the Fox sloop-of-war, furnished by the Admiral on the Jamaica station, by order of the Admiralty, "to facilitate to him a passage to his nation, (the Creeks.)" This gentleman, after attempting in various ways with the Seminoles to usurp the government of the Creeks without success, created himself director general of Muscogee, declared war against Spain, murdered some of his subjects, and took St. Mark's. He ordered me, with my assistants in the plan of civilization, out of the Creek nation.

I communicated his proceedings to the national councils, who had been previously acquainted with him, and who replied to him that he "had a title among them, which he well merited, Capetum-nee-lox-au, (the Prince of Liars,) and no other." This director general of Muscogee, after playing a farce for two years, experienced a tragic scene, which deprived him of his liberty. He was put in irons by order of the council whose government he attempted to usurp, and sent to the Governor General of Louisiana, to answer for crimes. His Seminole chiefs were glad to retire with impunity. After this, it was unanimously determined, in a national council of distinguished chiefs from every town and a deputation of Choctaws, Chickasaws, and Cherokees, that the warriors should be classed, and held in readiness to execute the orders of the executive council, and that the agent for Indian affairs should have the power of executing the treaty stipulations of the Creeks with their white neighbors. Tookaubatche and Coweta, alternately, as the occasion required, were appointed the permanent seat of the national councils, where national affairs alone could be transacted. They have now two speakers. When the council meets at Coweta, Tustunnuggee Hopoie, as speaker for the Lower Creeks, is speaker for the nation; and when they meet at Tookaubatche, Tustunnuggee Thlucco, of the Upper Creeks, is speaker for the nation. Coweta is headquarters for the present. The agent for Indian affairs can convene the council.

To this council I communicated, in your own words, the pretensions of your three chiefs. They answer, "We have had Colonel Nicholls's communication before us, that Hapoith Micco, and Caupachau Micco, and Hopoie Micco are the sovereigns of this nation. We know nothing about them as such. We have often invited them to attend our talks. They never would come forward, and Hapoith Micco is a hostile Indian. They have nothing to do with our affairs. They reside in the Spanish territory."

After mentioning a solitary effort of yours "to keep the peace," you say "I am very sorry to say the same line is not taken on your side, nor have you written to me to say what steps you are taking, or intend to take, to secure this mutual good." You could not have expected I should communicate with you, when, from your orders, you were so soon to leave the country. I have communicated to the national council several outrages committed by banditti from the Seminoles and other parts, upon the post road and frontiers, of Georgia, repeatedly. They have in two instances had the guilty shot, and sent armed parties after others. As late as the 17th of April one man was killed and four wounded on the post road; our wagons twice attacked, and one wagoner killed, several horses taken and carried, as reported, to your depot, at the very time the wagons were carrying seed corn for the Indians, and flour for the support of nearly five thousand totally destitute of food.

The measure in operation here to preserve peace is with an efficient force, red and white troops, to pursue, apprehend, and punish all violators of the public peace. The executive council of the Creeks are continually at Coweta, with an assistant agent to take orders with the warriors when the necessity is apparent, and to call on me when the aid of regular troops is necessary. We do not rely on the exertions of any one but ourselves to preserve peace among the Creeks, and between them and their neighbors of the United States and the Floridas. We examine fairly, spare the innocent, and punish the guilty, and in no case suffer revenge to carve for itself.

On an *ex parte* hearing, you have "armed the Seminoles, and given orders to put to death, without mercy, any one molesting them." This is cruelty without example—scalping men, women, and children, for troubling or vexing only, and the executioners the judges! To gratify their revenge, the good and innocent citizens on the frontiers are to be the victims of such barbarity. Suppose a banditti were to commit a violent outrage, such as that of the 17th April; are we to charge it on the unoffending people of the frontiers, and kill them without mercy, if we could not find out the guilty? You have issued the order, provided and issued munitions of war for its execution, prepared and provisioned a stronghold to retire upon, in case of superior force appearing, to protect them in this mode of gratifying their revenge. You will be held responsible, and your strongholds will certainly not avail. If you are really on the service of His

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Britannic Majesty, it is an act of hostility which will require to be speedily met, and speedily crushed. But, sir, I am satisfied you are acting for yourself, on some speculative project of your own. The Sovereign of Great Britain could not, from his love of justice in time of peace, his systematic perseverance in support of legitimate Sovereigns, almost to the impoverishing of his own nation, suffer any of his officers to go into a neutral country to disturb its peace.

If the Seminole Indians have complaints to make, if they will do it through the chiefs of the Creek nations, or direct to me, or through an officer of His Catholic Majesty, as heretofore, I will cause justice to be done. In cases of murder, the guilty, if practicable, shall be punished; in case of theft, restitution shall be made.

The treaties you have made for the Creek nation, with the authority created by yourself for the purpose, must be a novelty. It would surprise me much to see your Sovereign ratify such as you have described them to be, with a people such as I know them to be, in the territories of His Catholic Majesty. I shall communicate what has passed on the subject between us to the officers of Spain in my neighborhood, that they may be apprized of what you are doing.

As you may not have recent news from Europe, I send you some newspapers detailing important events there on the 4th of April.

I am, &c.,  
BEN. HAWKINS,  
*Agent for Indian Affairs.*

To Col. NICHOLLS,  
*Com'g H. B. M. forces, Appalachicola.*

No. 6 a.

*General Gaines to the Secretary of War.*

HEADQUARTERS, FORT STODDERT,  
*Mississippi Territory, May 14, 1815.*

SIR: I have the honor to enclose herewith the deposition of Samuel Jervais, which, taken in connexion with other accounts recently received from Appalachicola, and a letter from Lieutenant Colonel Saffold, of the Territorial militia, a copy of which is also enclosed, leave little doubt that these deluded savages meditate a renewal of the war upon our frontier inhabitants.

I shall visit Forts Montgomery and Claiborne, and endeavor to ascertain, without loss of time, the real designs of the Indians; and, should they be for war, shall assemble a force to meet them.

The remains of the second and third regiments of infantry are at the Pass Christian, and may be brought to this frontier in a few days, and, added to the remains of the twenty-fourth and thirty-ninth, now at Fort Montgomery, will give us a force of near one thousand men. With this force I shall be able to keep the Indians in check; and with another thousand, to consist of Choc-taws and volunteers, I should feel sufficiently strong to make a decisive stroke upon the depots at Appalachicola, which I persuade myself the Government may be at liberty to sanction; for, until these depots (if they really exist) are

destroyed, our frontier cannot but continue extremely insecure.

I am unable to say how far the statement of Jervais is entitled to credit; but I have examined him attentively, and am under a strong impression that he has stated the truth, and that the supplies mentioned in his deposition are not mistaken for those delivered last Fall, but have really been delivered since the ratification of the treaty had been officially announced to the British troops at Appalachicola. These supplies were, however, brought to Appalachicola previous to the ratification of the treaty.

I have ordered the commanding officers of corps and posts to hold their commands ready for active service, and have taken measures to prepare a small train of light artillery, with a proper supply of fixed ammunition, tools, camp equipage, &c., for an Indian campaign. Whilst Spain permits our enemy to assemble forces, and make military depots for our annoyance within her territory, surely she can make no reasonable objection to our visiting those depots. Besides, Spain is expressly bound by treaty "to restrain by force all hostilities on the part of the Indian nations living within her boundary." If she does not restrain them, we may conclude that she has endeavored to do so, but is unable. Can she blame us, then, for restraining them ourselves?

I have the honor to be, with the greatest respect and esteem, sir, your obedient servant,

EDMUND P. GAINES,  
*Major General by brevet.*

P. S. I have written to Major General Jackson upon the same subject; but as he is probably on his way to Washington, I have thought proper to address you direct.

E. P. G.

Hon. A. J. DALLAS,  
*Acting Secretary of War.*

No. 6 b.

*Deposition of Samuel Jervais, enclosed in the above letter.*

Samuel Jervais, being duly sworn, states: That he has been a sergeant of marines in the British service for thirteen years past; that about a month ago he left Appalachicola, where he had been stationed for several months; that the English colonel (Nicholls) had promised the hostile Indians at that place a supply of arms and ammunition, a large quantity of which had been delivered to them a few days before his departure, and after the news of a peace between England and the United States being confirmed had reached Appalachicola; that, among the articles delivered, were, of cannon, four twelve-pounders, one howitzer, and two cohorts; about three thousand stands of small arms, and near three thousand barrels of powder and ball; that the British left with the Indians between three and four hundred negroes, taken from the United States, principally from Louisiana; that the arms and ammunition were for the use of the Indians and negroes, for the purposes, as it was understood, of war with the United States; that the Indians were

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assured by the British commander that, according to the Treaty of Ghent, all the lands ceded by the Creeks, in treaty with General Jackson, were to be restored; otherwise, the Indians must fight for those lands, and that the British would in a short time assist them.

his  
**SAMUEL X JERVAIS,**  
mark.

Sworn and subscribed to before me, this 19th May, 1815, at the town of Mobile.

L. JUDSON, J. P.

No. 7.

*General Gaines to A. J. Dallas, Acting Secretary of War.*

HEADQUARTERS, FORT STODDERT, M. T.,  
May 22, 1815.

SIR: I returned last night from Fort Montgomery, where, though unable to obtain satisfactory information as to the hostile intentions of the Creek Indians, I learned that two of the party mentioned in my last had been killed, and some others wounded; and that the Indians had afterwards killed two of our citizens, a Mr. West, and another whose name my informant (Colonel Files, from the settlement of Alabama, near where the act was perpetrated) had forgotten.

Some negro men belonging to Don McGill, of Mobile, taken some months ago to Appalachicola by the British, voluntarily returned a few days past. Their statement of the supplies and negroes left by the British corresponds with that contained in the deposition of Jervais, enclosed in the letter which I had the honor to address to you on the 14th instant. The negroes add that there are at Appalachicola nearly eight hundred Indian warriors, and that the negroes were permitted to remain with the Indians as freemen, or to return to their masters, as they should elect, and that but few had agreed to return.

I feel convinced that the Indians are generally under the impression that the lands ceded to the United States by the treaty with General Jackson must be restored, or that a war must ensue; and that their friends, the British, will re-establish them in the possession of these lands.

So industriously have these impressions been circulated by the British and Spanish agents among the Indians, that, so far as I can learn, not only the chiefs, but the common warriors, are in the habit of saying that the British treaty with the Americans gives the Indians their lands taken by the treaty with General Jackson.

Since writing the above, I have been furnished with the enclosed deposition of S. Dale, who is a major of militia.

I have the honor to be, most respectfully, sir, your obedient servant,

EDMUND P. GAINES,  
*Major General by brevet.*

P. S.—Since closing my letter, I learn that Nicholls, said to be a colonel in the British service, is still at Appalachicola, and that he has

nine hundred Indians and four hundred and fifty negroes under arms. This account is brought by a very intelligent negro man belonging to D. Kennedy, at Mobile. I think it goes to strengthen the accounts heretofore given in my letter of the 14th instant.

E. P. GAINES.

The Hon. A. J. DALLAS,  
*Act'g Sec'y at War, Washington.*

No. 8.

*Memorandum of a gentleman of respectability at Bermuda.*

ST. GEORGE, BERMUDA, May 21, 1815.

Captain Rawlins, of His Majesty's ship Borer, has stated to me in the course of various conversations, that, at the time of his departure from Appalachicola, (which appears to have been about the 20th to the 28th April,) the British had collected upwards of three hundred persons at or near Prospect Bluff, partly deserters from the United States, and partly from the Spanish provinces of East and West Florida. These people had been received and protected by Colonel Nicholls, of the royal marines, who was stationed at that place, and who appears to have been under the impression (at least he said so) that the British authorities had no right to the country in that vicinity.

Admiral Cochrane, however, appears to have disapproved of Nicholls's conduct in affording protection to the Spanish slaves, and had sent the Hon. Captain Spencer to Pensacola for the purpose of making arrangements for their restoration; who accordingly proceeded to Appalachicola, with Captain Pentado, named commissioner on the part of the Spaniards.

It does not appear that these gentlemen were successful in their mission, as it was understood that the refugees were not to be coerced, but merely such facilities afforded to those who voluntarily agreed to return, as might be found necessary.

Much altercation has arisen out of this commission, in consequence of many officers having espoused the cause of the slaves; and at one time the life of Captain Spencer had been threatened by the negroes. Captain Rawlins adds that much ammunition, and a good many stands of arms, with some pieces of artillery, had been left with them; and that the fort constructed by Colonel Nicholls "would not be destroyed."

I have since learned that the Carron, which must have sailed from Appalachicola previous to the Borer, is arrived at Nassau, on her way to Bermuda, with one hundred and seventy-six slaves of all ages. As she is daily expected, and as Captain Spencer is now on his way here, it might be as well to wait their arrival before you make any official communication to your Government on the subject. It is however obvious, that were you in possession of the whole facts, no time ought to be lost in recommending the adoption of speedy, energetic measures, for the destruction of a thing held so likely to become

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dangerous to the State of Georgia. The Spaniards are not in a situation to do it, but I dare say would co-operate. I have learned that the whole of the slaves brought from the United States have been sent to Nova Scotia, with the exception of a few that were lately shipped to the island of Trinidad, in His Majesty's ship the *Levant*, and such as have enlisted in the colonial marines were in these islands. A few stragglers have contrived to get on shore in the Bermudas, and by the connivance of their colonized friends to remain, very contrary to the wishes of the inhabitants, who are in general desirous of getting rid of them.

It has been whispered (I know not with what truth) that the people expected in the Carron, who are from Louisiana and West Florida, are also to be sent to Trinidad.

The Carron is arrived; and this morning I understood from Messrs. James and Michael Carron, the agents of Sir Alexander Cochrane, the Carron was going to some port of the West Indies—unquestionably to Trinidad.

## No. 9.

*Address to the King of England from the Indians, published in the English newspapers of the 15th of August, 1818.*

We, the chiefs of the Muscogee nation, in full council assembled, on behalf of ourselves and our people, do make the following requests of our good father, King George, and declare to him certain resolutions we have come to, with our reasons for so doing.

We conceive it to be indispensably necessary for our good, as well as to make us useful allies of Great Britain, that officers should be constantly kept among us; and we request that our good father will grant us this favor. Since Colonel Brown left us, we have been a prey to civil dissensions, fomented and kept up by our inveterate and never-to-be-satisfied foe, the Americans; by their bad advice has brother been in the act of shedding the blood of brother; and when the land becomes thus desolated, they possess themselves of it, so that we shall soon be driven to the desert sands of the sea from the fertile fields of our forefathers; and we are told that the Spaniards will not let us trade with the British from the mouths of our rivers; we, therefore, further request that our good father will secure for us the mouths of the rivers Appalachicola, Alabama, and St. Mary's; for, if our communication is once more cut off from his children, we shall be totally ruined. We have fought and bled for him against the Americans, by which we have made them our more bitter enemies; and, as he has stood the friend of the oppressed nations beyond the great waters, he will surely not forget the sufferings of his once happy children here. We therefore rely on his future protection and fatherly kindness; we will truly keep the talks which his chief has given us, if he is graciously pleased to continue his protection. Famine is now devouring up ourselves and our children, by reason of our Upper Town brethren being driven down upon us in the

time the corn was green; and now their miseries and necessities cause them to root up the seeds of our future crop, so that what we sow in the day we are obliged to watch at night. Were it not for the powder we get from your chief, the whole of the nation would be in dust. The Red Sticks have shot and eaten up almost the whole of our cattle, for they have seen their children digging in the woods for want; and who can blame them, when they are pressed by such cruel necessity? Thus we are situated, and we are only looking to the departure or the stay of your children as the signal of our destruction or prosperity. In former times, after the British left us, to show our love and regard for their nation, we made a grant of our lands to the house of Panton, Leslie, & Co., and latterly to the house of John Forbes & Co., on certain terms—that they were to settle the lands with British men, and keep up a sufficient and good assortment of all sorts of merchandise suitable to our wants; but, instead of their doing this, they have attempted to settle our lands with Americans, and have refused to supply us with powder when we were attacked by our enemies, and have urged us to declare for the Americans against the British, and have offered rewards to us for that purpose; and they have actually written to their agents who reside among us, desiring them to obstruct the British officers all in their power from assisting us, and to represent to them, also, how impossible it would be for them to succeed against the Americans; and we, having intercepted their letters, did deliver them to Lieutenant Colonel Nicholls, who is our witness; and the said letters were delivered by an Indian to John Forbes, at St. Augustine, to be forwarded by him as aforesaid; and, as it does stand thus, on unquestionable proof, that the said house of Forbes & Co. have shamefully broken their contracts with us, we do, in this our full assembly, declare all their property in our nation to be confiscated to the nation; and we further annul and declare void our grant or grants of lands accordingly, warning them, and all belonging to them, never to appear again in the nation. And the United States, or some part thereof, have thought proper to run a line or wagon road through the Indian nation, from Hartford, in Georgia, to Mobile, in West Florida, without our consent, and to our great hurt and annoyance.

We implore our good father that he will cause them to disuse the said road, and to cease all communication between them and us, as we are determined to cease having any communication with them; and we warn all Americans to keep out of this nation. And whereas that a young chief, called McIntosh, was sent with a message of remonstrance against the abovementioned road being run, and of several other encroachments on the Tombigbee, Coosa, and Alabama rivers, instead of his making such remonstrance, he suffered himself to be tricked by our enemy, and unlawfully sold to them large tracts of land on and about the rivers Oconee and Ockmulgee, which tracts of land we implore our good father

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to use his endeavor in getting restored, and that the Americans may be obliged to withdraw from them. The abovementioned McIntosh holds a commission as Major in the American army, and of the Creek regiment; he has caused much blood to be spilt, for which we denounce him to the whole nation, and will give the usual reward of the brave to any one who may kill him, he having, on a recent occasion, killed and scalped a brother, who was on an errand of peace to our Cherokee brethren, for no other reason alleged against him than his having British arms about him; and in this, we are told, he has been encouraged by Colonel Hawkins, although long after peace was declared, and all hostility ordered to cease. We further request Lieutenant Colonel Nicholls will return our grateful thanks to our good father and his chiefs, by sea and land, for the useful and good presents he has sent to us by them; and also that the Lieutenant Colonel, and the officers with him in this nation, will receive our thanks for their brotherly conduct to us. And whereas our good father having made a peace with the United States of America, and, according to his true talk, he has not forgotten the interests of us his children, but has caused to be respected our lands, and guarantied the integrity of them to us, we do declare them or him to be traitors to this nation who shall, without his aid and our consent, sell or make over to any foreign Power any part thereof; and we do further declare whosoever shall endeavor, directly or indirectly, to separate us from him or his children, to be the enemy of us and our children, and that we will not trade or barter with any other than the British nation if the above requests be complied with; and we do promise to give grants of land to all such British men as our good father shall give permission to stay amongst us, and that we will do our best to protect and defend them in their laws and property; and we send as our representative our brave brother Hillis Hadjo (Francis) to our father, who is authorized to ratify this treaty.

Given under our hands, at the British fort at the confluence of the Chatahoochee and Flint rivers, this 10th March, 1815.

Hopoth Mico, *King of the Four Nations*,  
his x mark.

Hopy Mico, his x mark.

Nehemathla, 1st, his x mark.

Justomic Hago, his x mark.

Onus Hago, his x mark.

Nehemathla, 2d, his x mark.

Nehemathla, 3d, his x mark.

Justomic Emathla, his x mark.

Octaithge Hago, his x mark.

Acopheigemathlo, his x mark.

Tatao Mico, his x mark.

Hopothla Justanuggee, his x mark.

Conope Mathla, his x mark.

Yatoule Mathla, his x mark.

Johnson, his x mark.

Hillis Hadjo, his x mark.

*And fourteen other chiefs.*

Witnesses—Ed. Nicholls, Lieutenant Colonel;

H. Boss, Captain Rifle Corps; Jos. Roche, Captain 1st West India Regiment; Wm. Hambly, Lieutenant and 1st Interpreter.

No. 10.

*Extract of a letter from the Secretary of State to Mr. Baker, dated*

JULY 10, 1815.

The conduct of Colonel Nicholls, who has taken a position on the Appalachicola, within the Spanish territory, is, on the same principle, entitled to particular attention. I transmit to you a copy of a correspondence between him and Colonel Hawkins, agent of the United States with the Creeks, and also an extract of a letter from Major General Gaines, with the affidavit of Samuel Jervais, which show the nature and effect of his extraordinary and unjustifiable interference with that nation. It appears, by Colonel Nicholl's letter, that he considers our treaty with the Creeks, though made several months before the treaty with Great Britain, as rendered void by the latter, and that he is endeavoring to impress that opinion on them, and to excite them to hostility in support of it; that he has supplied them with arms and munitions of war, and had actually formed a treaty of alliance, offensive and defensive, with certain Indians, whom he calls the Creek nation, which he has sent to his Government for ratification; that, in short, he had made Appalachicola a military station, at which he had collected a large body of Indians and fugitive slaves from the United States, evidently for hostile purposes against the United States. The conduct of this officer is of too marked a character to require any comment. His proceedings are utterly and evidently incompatible with the late treaty with Great Britain, and with the amicable relations established by it between our countries.

In calling your attention to these proceedings, it is not my object to dwell on each particular act of which I complain. I shall remark, generally, that, as the treaty with the Creeks was concluded before the treaty of peace with Great Britain, the ninth article of that treaty has no bearing with that nation; and that any interference of Nicholls, or other British agent, with the Creeks, however slight, is improper and unjustifiable.

The President cannot doubt that the conduct of Colonel Nicholls and of the other British agents, as stated in the correspondence which is communicated, is unauthorized by your Government, and that they will be justly censured and punished by it. In the meantime, as you were particularly empowered to act in all circumstances, connected with the execution of the late treaty of peace, I am persuaded that you will readily interpose your authority to put an end to proceedings of a nature so unwarrantable, and which have already produced such injurious effects.

No. 11.

*Extract of a letter from the Secretary of State to Mr. Adams, dated*

DEPARTMENT OF STATE, July 21, 1815.

The conduct of Colonel Nicholls to the south

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is still more extraordinary. Having noticed it in sufficient detail in my letter to Mr. Baker, I refer you to that paper for the necessary information respecting it.

It may be fairly presumed that these acts were not authorized by the British Government; that they are imputable only to Indian agents, and those under whom they act in this country. They nevertheless deserve reprehension, which it is expected that the British Government will not hesitate to inflict.

## No. 2. a.

*Extracts of a letter from Mr. Adams to the Secretary of State, stating the substance of a conversation with Earl Bathurst, dated*

LONDON, Sept. 19, 1815.

I said that the American Government had been peculiarly concerned at the proceedings of Colonel Nicholls, because they appeared to be marked with unequivocal and extraordinary marks of hostility. "Why," said Lord Bathurst, "to tell you the truth, Colonel Nicholls is, I believe, a man of activity and spirit, but a very wild fellow. He did make and send over to me a treaty, offensive and defensive, with some Indians; and he is now come over here, and has brought over some of those Indians. I sent for answer that he had no authority whatever to make a treaty, offensive and defensive, with Indians, and that this Government would make no such treaty. I have sent him word that I could not see him upon any such project. The Indians are here in distress, indeed; but we shall only furnish them with the means of returning home, and advise them to make their terms with the United States as well as they can." Perceiving that I had particularly noticed his declaration that he had declined seeing Colonel Nicholls, he said that he should perhaps see him upon the general subject of his transactions, but that he declined seeing him in regard to his treaty with the Indians.

In this conversation Lord Bathurst's manner, like that of Lord Liverpool, in the conference which I had about a month before with him, was altogether good humored and conciliatory. The conduct of all the officers and persons complained of was explicitly disavowed; and I understood, at first, the observation of Lord Bathurst, that he had declined seeing Colonel Nicholls, as an intimation that it was intended to exhibit towards that officer unequivocal marks of displeasure. But the subsequent explanation left me to conclude that, although the disapprobation of his proceedings was strongly expressed to me, the utmost extent of it that would be shown to him would be the refusal to ratify his treaty, offensive and defensive, with the Indians.

## No. 12 b.

*Extract of a note from Mr. Adams to Earl Bathurst, dated*

LONDON, Sept. 25, 1815.

In the conference with your Lordship which I was honored on the 14th instant, I represented to you, conformably to the instructions

which I had received from the Government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters incompatible, not only with those amicable relations which it is the earnest desire of the American Government to restore and to cultivate, but even with the condition of peace which had been restored between the two countries by the Treaty of Ghent.

It was with the highest satisfaction that I understood your Lordship, in the name of the British Government to disavow the proceedings of all those officers, of which it had been my duty to complain; and that I received from you the assurance that orders had long since been given for the restoration of the post of Michilimackinac to the United States; that instructions had been given to promote, by all suitable means, the restoration of peace between the Indians and the United States; and, particularly, that Colonel Nicholls, in pretending to conclude a treaty, offensive and defensive, with certain Indians belonging within the jurisdiction of the United States, had not only acted without authority, but incurred the disapprobation of His Majesty's Government.

## No. 13 a.

*Extract of a letter from Mr. Adams to the Secretary of State, containing the substance of a conversation with Lord Castlereagh, dated*

LONDON, Feb. 8, 1816.

I next observed that, at the other extremity of the United States, the Indians again appeared in the shape of disturbers of the peace between our countries. I recapitulated your remonstrances to Mr. Baker, and mine, by your order, to Lord Bathurst, against the conduct of Colonel Nicholls; that officer's pretended treaties of alliance, offensive and defensive, and commerce and navigation, with certain runaway Indians, whom he had seen fit to style the Creek nation; and the very exceptionable manner in which he had notified his transactions to the agent of the United States with the Creeks, with an intimation that we were to hear more about the treaties when they should be ratified in England. I mentioned that Lord Bathurst had, in the most candid and explicit manner verbally disavowed to me these proceedings of Colonel Nicholls; had told me that the pretended treaty of alliance, offensive and defensive, had been indeed transmitted by the Colonel for ratification; but this Government had refused to ratify it, and informed Colonel Nicholls that they would agree to no such treaty; that the Colonel had even brought over some of his Indians here, who would be sent back, with advice to make their terms with the United States as they could. These verbal assurances I had reported to my Government, and presumed they had been received with much satisfaction. Whether they had been repeated in a more formal manner, and in any written communication, I had not been informed. I had noticed the conduct of Colonel Nicholls in one of my notes to

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Lord Bathurst, and to that part of the note had received no answer. As the complaint had also been made through Mr. Baker, a written answer might, perhaps, have been returned through that channel. My motive for referring to the subject now was, that, by the President's Message to Congress at the opening of the session, I perceived that the conduct of the Indians in that part of the United States still threatened hostilities, and because there, as in the more northern parts, the Indians would certainly be disposed to tranquillity and peace with the United States, unless they should have encouragement to rely upon the support of Great Britain. Lord Castlereagh said, with a smile, that he had a good many treaties to lay before Parliament, but none such as those I described were among them.

## No. 13 b.

*Extract of a letter from Mr. Adams to Lord Castlereagh, dated*

LONDON, March 21, 1816.

It has been more than once a painful part of the duty of the undersigned to represent to His Majesty's Government the unfriendly dispositions manifested by British military officers in America towards the United States since the peace between the two countries; and to point out specific and unequivocal facts, by which those officers, far from exerting themselves to carry into effect the avowed object of their own Government, of securing to the Indians who had followed the British standard during the war the blessings of the pacification, have labored with an activity as restless, and a zeal as ardent, as they could have done in the heat of war, to instigate Indians belonging within the territorial jurisdiction of the United States to continued or renewed hostility against them. When, in the course of last Summer, the undersigned had the honor of exposing to Earl Bathurst the transactions deeply marked with this character of Colonel Nicholls, he was happy to receive from his Lordship, verbally, at once the confirmation of the facts, and the disavowal of the measures. Colonel Nicholls, after the conclusion of the peace between his Sovereign and the United States, not only used every effort in his power to urge to war against the United States tribes of Indians with whom they were then at peace, and who were far remote from any British possession whatever, but actually concluded a pretended treaty of alliance, offensive and defensive, between some of them and Great Britain against the United States. Of this treaty, Earl Bathurst, in a conference with the undersigned, expressed himself in terms of unqualified disapprobation; adding that it had not been ratified or approved, and that no such treaty would be made or agreed to by Great Britain. In the pursuit of his projects, Colonel Nicholls brought over some of these Indians to England; but as Lord Bathurst, in the most explicit manner, assured the undersigned that no use of them hostile to the United States would be made by Great Britain, the undersigned is persuaded that that

determination has not been departed from by His Majesty's Government.

How far the threat of Indian vengeance is becoming to the humanity of British officers, or the dignity of their Government, in a correspondence with the officers of a civilized nation, and in a time of peace, the undersigned leaves to His Majesty's Government to decide. Neither Colonel Nicholls nor Colonel James was ashamed to use it; and it would be treated by the undersigned as it was by the officers of the United States to whom it was addressed, were it not his duty to remark that, in condescending to be the heralds of this menace, those officers sufficiently indicated that they understood its being carried into execution or not depended upon them; that they viewed themselves as the regulators to restrain or to license Indian barbarity at their discretion; that they (British military officers) called upon the civil authority of the United States to satisfy the revenge of Indian savages belonging within the American jurisdiction, for acts committed upon the American territory; threatening, as the alternative, to let loose those savages to wreak their own vengeance, in all its fury, upon American women and children.

Independently of the very serious character of these transactions in themselves, the undersigned entreats the attention of the British Government to the spirit by which they were dictated. This excessive earnestness of British authorities, military and civil, to hold themselves forth as the protectors, through right and through wrong, of Indians not belonging to British territories, however politic it may be deemed to imbitter enmities and to provoke hostilities between the Indians and the Americans, cannot but excite animosities far more formidable between the British and American nations. If persevered in, it must eventually prove most pernicious and fatal to the Indians themselves. The occasion will justify the expression of the hope that orders and instructions will be issued to the local authorities of the British colonies in North America, which will leave no doubt on the minds of those invested with them that the real intention of Great Britain towards the United States is peace.

## No. 14.

*General Jackson to the Governor of Pensacola.*

HEADQ'RS DIVISION OF THE SOUTH,  
Washington, M. T., April 23, 1816.

SIR: I am charged by my Government to make known to you that a negro fort, erected during our late war with Great Britain, at or near the junction of the Chatahoochee and Flint rivers, has been strengthened since that period, and is now occupied by upwards of two hundred and fifty negroes, many of whom have been enticed away from the service of their masters, citizens of the United States; all of whom are well clothed and disciplined. Secret practices to inveigle negroes from the citizens of Georgia, as well as from the Cherokee and Creek nations of Indians, are still continued by this banditti and the hostile Creeks.



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This is a state of things which cannot fail to produce much injury to the neighboring settlements, and excite irritations which eventually may endanger the peace of the nation, and interrupt that good understanding which so happily exists between our Governments.

The principles of good faith, which always insure good neighborhood between nations, require the immediate and prompt interference of the Spanish authority to destroy or remove from our frontier this banditti, put an end to an evil of so serious a nature, and return to our citizens and friendly Indians inhabiting our territory those negroes now in said fort, and which have been stolen and enticed from them. I cannot permit myself to indulge a belief that the Governor of Pensacola, or the military commander at that place, will hesitate a moment in giving orders for this banditti to be dispersed, and the property of the citizens of the United States forthwith restored to them and our friendly Indians; particularly when I reflect that the conduct of this banditti is such as will not be tolerated by our Government, and, if not put down by Spanish authority, will compel us, in self-defence, to destroy them. This communication is intrusted to Captain Amelung, of the first regiment of the United States infantry, who is charged to bring back such answer as you may be pleased to make to this letter. In your answer you will be pleased to state whether that fort has been built by the Government of Spain, and whether those negroes who garrison it are considered as the subjects of His Catholic Majesty, and, if not by His Catholic Majesty, by whom, and under whose orders, it has been erected.

ANDREW JACKSON,

*Major Gen. Com'g Div. of the South.*

To the GOVERNOR of Pensacola,  
Or Military Com. of that place.

A true copy:

ISAAC L. BAKER, *Aid-de-camp.*

No. 15.

*Governor Zuniga to General Jackson.*

PENSACOLA, March 26, 1816.

MOST EXCELLENT SIR: On the 24th of the present month, Captain Amelung, of the 1st United States regiment, put into my hands your excellency's letter, dated at Washington, Mississippi Territory, on the 23d of April last, in which, after apprizing me that your Government had given it in charge to you to inform me that the fort of the negroes, erected during the late war with Great Britain, near the junction of the Chatahoochee and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are citizens of the United States,) and that all of them are well armed, provisioned, and disciplined, you make many wise reflections with respect to the serious injuries which may result from tolerating such an establishment, not only to those in the immediate neighborhood of

it, by disturbing the peace of the nation, but likewise to the good understanding which happily exists between our respective Governments; you enter into an investigation to show what the Spanish authorities ought to do to put an end to an evil of so serious a nature, in the mode prescribed by those principles of good faith which are the foundation of friendly neighborhood among nations; you distinctly state what this Government ought immediately to do, in failure of which your Government will be obliged to do it, to insure the safety of the inhabitants of the United States; and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish Government, and whether the negroes who compose its garrison are deemed subjects of His Catholic Majesty, and, if the fort was not built by Spanish authority, to state by what authority, and by whose order, it was built.

In answer to your excellency, I will state, with the veracity which comports with the character of an honorable officer, in which class I rank myself that, having arrived at this place nearly at the close of the month of March preceding, and being informed of what your excellency has communicated to me, (with this difference, that the fort, instead of being where you place it, is to be found on the eastern bank of the Appalachicola, at about fifteen miles from its mouth or entrance into the sea,) I lost no time in proposing to my Captain General the measures which appeared to me proper, as well for securing the inhabitants of the country under my command from the damages, losses, and injuries which they have suffered, and still suffer, from this establishment, as to prevent the American citizens and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer, and consequently your excellency (who knows how limited are the powers of a subordinate officer) cannot be surprised that I should make known to you that, although my mode of thinking exactly corresponds with yours as to dislodging the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my Captain General, and the assistance necessary to enable me to undertake the enterprise with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed; and, should it authorize me to act, your excellency may rest assured and persuaded that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil which is felt to the full extent stated in your letter by the inhabitants of this province, who are the subjects of my Sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation, your before-named letter may be considered as fully answered, as it

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gives me pleasure to understand that, thinking as your excellency thinks with respect to the necessity of destroying the negroes, the fort at Appalachicola occupied by them was not constructed by orders of the Spanish Government; and that the negroes, although in part belonging to inhabitants of this province, and as rational beings, may be the subjects of the King, my master, are deemed by me insurgents or rebels against the authority, not only of His Catholic Majesty, but also of the proprietors from whose service they have withdrawn themselves; some seduced by the English Colonel Nicholls, Major Woodbine, and their agents, and others from their inclination to run off. But as your excellency manifests a particular desire that, in case the fort was not erected by Spanish authority, I should state by what authority and by whose orders it was erected, I have no difficulty in satisfying your curiosity, by informing you that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahoochee and Flint rivers (which it appears no longer exists,) were built by the order of the before-named Colonel Nicholls. I will not assure you that he did it under authority from his Government; but I can say that he proceeded to place artillery, munitions, and provisions in it, by the arrangement of Vice Admiral Malcolm; and that when Colonel Nicholls and the troops of his detachment, after the conclusion of the expedition against Louisiana, withdrew from that point, he left orders with the negroes, totally contrary to the incontestable right of sovereignty which the King, my master, exercises from the line of the thirty-first degree of north latitude to the South. My predecessors in this Government have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded by those on whom this duty devolves. I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants; and that my present inaction does not proceed from a want of inclination. I likewise flatter myself that, until my Captain General decides, no steps will be taken by the Government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the King, my master, or the district of Appalachicola, which is a dependency of this Government. And, finally, I conclude by assuring your excellency that it will afford me particular satisfaction to have opportunities of evincing my desire, not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective Governments, but also to prove to your excellency the high opinion I entertain of your virtues and military talents. God preserve your excellency many years.

MAURICIO DE ZUNIGA.

His Exc'y ANDREW JACKSON.

*Major General, &c.*

No. 16.

*Report of Captain Amelung to General Jackson.*

NEW ORLEANS, June 4, 1816.

SIR: In obedience to your order, received on the 6th of May last, I proceeded the next day for Pensacola; but owing to adverse winds, (having to wait twelve days at the bay of St. Louis,) I only arrived at that place on the 24th May. I was received and treated with great attention by the Governor and his officers, and, after receiving his answer to your letter, I left there on the 27th, and arrived here on the 2d instant.

I have the honor to transmit herewith the answer of the Governor, which, I think, embraces all the points touched upon in your letter; and also take the liberty to subjoin a translation thereof, as it might happen that no person is near you understanding the Spanish language. I am firmly of opinion that the Governor asserts the truth in his communication; and am convinced that the inhabitants of Pensacola have suffered, and do now suffer, more than our citizens, from the existence of the fort and its garrison.

I also take the liberty of communicating such intelligence as I have been able to collect from good authority, and which might perhaps be of some use.

The fort in question is situated at Bonavista, on the eastern branch of the Appalachicola river, 15 miles above its mouth, and 120 miles east of Pensacola. The river discharges itself into St. George's Sound, and vessels drawing not more than ten feet water may come in between St. George's and St. Vincent's islands; the bar, however, is dangerous, and requires skilful pilots.

The fort was constructed by Nicholls and Woodbine, and the British occasionally resorted thither; but, on their final evacuation of this country, left it in the possession of a garrison composed of negroes and Indians, with four pieces of heavy ordnance, and 10,000 pounds of powder, &c. About twenty Choctaws, a number of Seminoles, and a great number of runaway negroes are supposed to have been there some time ago, but a great part of these brigands have abandoned the fort on account of scarcity of provisions, and have gone to Savannah (*alias* St. Joseph's) river, in East Florida, whither they will, no doubt, all retire, in case of an attack by land, as they have a schooner and several large boats to make good their retreat by sea, if not interrupted.

From this spot they can easily annoy our settlements on Flint river, and the whole Georgia frontier, and are in a country where they can procure subsistence with facility.

Pensacola itself is, I can assure you, entirely defenceless. The garrison consists of from 80 to 100 effective men, exclusive of a battalion of colored troops, say about 150 men, of whom the inhabitants themselves stand in constant dread. They have about 150 serviceable muskets, about 500 musket cartridges, and not enough gunpow-

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der to fire a salute; one gun was mounting at Barancas on the day I left there. To this is to be added the dissatisfaction of the inhabitants, and even of a number of the officers of Government, and the desire of a majority to see a change effected. I must not forget to present to you, on the part of the Governor, the thanks of the inhabitants of Pensacola for the exemplary and humane conduct of the army under your command at Pensacola, and I verily believe their professions to be sincere.

The Governor also, on my mentioning in conversation that I was persuaded you would willingly assist in destroying the fort, said, if the object was of sufficient importance to require the presence of General Jackson, he would be proud to be commanded by you; and that, if the Captain General of Cuba could not furnish him with the necessary means, he might perhaps apply to you for assistance.

Having nothing further to add, I remain, very respectfully, your obedient servant,

VERO Z. AMELUNG,

A true copy: *Captain 1st Infantry.*

JAMES T. DENT,

*Judge Advocate, Division of the South.*

No. 17.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, June 15, 1816.*

SIR: I have this moment received the answer of the commanding officer and Governor of Pensacola to mine of the 23d of April, which I hasten to forward for your information, as well as the copy of the report of Captain Amelung, of the 1st infantry, who was the bearer of my letter. I send you the original, retaining a copy in English forwarded to me by Captain Amelung.

The answer bears the marks of candor and breathes the spirit of friendship; and as those marauders on our frontier are acknowledged officially as rebels against the Government of Spain, there can be no fear of disturbing the good understanding that exists between us and Spain, by destroying the negro fort, and restoring to the owners the negroes that may be captured.

The 4th and 7th infantry will be sufficient to destroy it. A few troops from the 1st infantry, with a small naval force, will prevent their escape, and capture those vessels named by Captain Amelung in his report. I shall await your order on this subject, which shall be promptly obeyed and executed.

I am, respectfully, &c.

ANDREW JACKSON,

*Major Gen., com'g Div. of the South.*

Hon. WM. H. CRAWFORD,  
*Secretary of War.*

No. 18 a.

*General Gaines to the Secretary of War.*

CAMP NEAR FORT JACKSON,  
*April 30, 1816.*

SIR: I have just now received a letter from

Lieutenant Colonel Clinch, dated near the mouth of Summochichoba, the 26th instant, enclosing a communication from the Little Prince, a copy of which I enclose herewith.

This chief is on a tour down the river to visit the Seminole chiefs near the Appalachicola.

The ostensible object of the visit was to adopt measures to take the negro fort; and as Colonel Hawkins had confidence in the promises of the Indians to effect this object, I sanctioned a requisition for supplying them with three hundred bushels of corn, to serve as rations. That I have little faith in their promises, I will not deny; but it seemed to me proper to encourage them in the prosecution of a measure which I felt persuaded would, if successful, be attended with great benefit to our southern frontier inhabitants, as well as the Indians themselves.

I have the honor to be, &c.

EDMUND P. GAINES.

Hon. WM. H. CRAWFORD,  
*Secretary of War.*

No. 18 b.

*Talk from the Little Prince, Tustenuggee Hopoy, to the Commander of the United States forces in the Indian nation.*

SIR: Jackson and Hawkins spoke to us, and told us we were their children. At the Tuskegee meeting you told us you would have the land as far down as the Summochichoba; but we chiefs did not agree to it. You did not tell us then you would build forts along the river bank down to the fork; but we heard, since, you issued orders to that effect. We do not think it friendly for one friend to take anything from another forcibly. The Commander and Hawkins did not tell us anything about building of these forts. Did you know these things, and keep them hidden from me? We told our friend Hawkins we would hold a meeting at this place on our way down. We were [told] at the fort at Summochichoba, built by the commanding officer, that he had orders to build three forts. Our friend Hawkins told us to go down to the fort of the blacks, and take them out of it, and give them to their masters; which we are at this present, when we have heard of Jackson's orders about building these forts. We hear of your meeting at Tuskegee. We hope you will detain the forces at the places they are at at present, and wait on the Indians, as I am sure they will be able to settle everything; but all the chiefs are not yet met. You know that we are slow in our movements. I spoke to the commanding officer at Summochichoba. He will read this, and write it off on a clean sheet, and send it on to the Commander-in-chief and Colonel Hawkins. I beg you will send me back an answer, and a sheet of paper, and a little ink, in order to enable me to write you again, if it should be necessary. I remain your friend,

TUSTENNUGGEE HOPOY.

A true copy: ROB. R. RUFFIN,  
*Lieut. Artillery, Aid-de-camp.*

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\*Written as spoken, by William Hambly, 26th April, 1816.

W. S. PENDLETON.

No. 19.

*General Gaines to Colonel Clinch.*

HEADQ'RS, FORT MONTGOMERY,  
*Mississippi Territory, May 23, 1816.*

SIR: Your letters up to the 9th instant have been received. The British agent, Hambly, and the Little Prince and others, are acting a part which I have been at a loss for some time past to understand. Are they not endeavoring to amuse and divert us from our main object? Their tricks, if they be so, have assumed a serious aspect, and may lead to their destruction; but we have little to apprehend from them. They must be watched with an eye of vigilance. The post near the junction of the rivers, to which I called your attention in the last month, must be established speedily, even if we have to fight our way to it through the ranks of the whole nation.

The surveyors have commenced laying off the land to be sold and settled, and they must be protected. The force of the whole nation cannot arrest your movement down the river on board the boats, if secured up the sides with two-inch plank, and covered over with clapboards; nor could all the nation prevent your landing and constructing a stockade work, sufficient to secure you, unless they should previously know the spot at which you intended to land, and had actually assembled at that place previous to or within four hours of your landing; but your force is not sufficient to warrant your march to the different villages, as suggested, by land. The whole of your force (except about forty men, or one company, for the defence of Fort Gaines) should be kept near your boats and supplies until the new post shall be established. You may then strike at any hostile party near you, with all your disposable force; but even then you should not go more than one or two day's march from your fort.

If your supplies of provisions and ammunition have reached you, let your detachment move as directed in my letter of the 28th of last month. You can venture to move with twenty-five days' rations, but you should order a supply to the agency, or Fort Gaines, where a boat should be built, and held in readiness to send down, in case any accident should prevent or delay the arrival of a supply which I have ordered from New Orleans.

I enclose you an extract of a letter containing an arrangement for the supply by water, and have to direct that you\* will provide a boat, and despatch it with an officer and fifty men to meet the vessels from New Orleans, as soon as you are advised of their being on the river. One of your large boats will answer the purpose, provided you

have no barge or keel-boat. Should the boats meet with opposition at what is called the Negro fort, arrangements will immediately be made for its destruction; and for that purpose you will be supplied with two eighteen-pounders and one howitzer, with fixed ammunition, and implements complete, to be sent in a vessel to accompany the provisions. I have, likewise, ordered fifty thousand musket cartridges, some rifles, swords, &c. Should you be compelled to go against the Negro fort, you will land at a convenient point above it, and force a communication with the commanding officer of the vessels below, and arrange with him your plan of attack. Upon this subject you shall hear from me again, as soon as I am notified of the time at which the vessels will sail from New Orleans.

With great respect and esteem, &c.

EDMUND P. GAINES,  
*Major General com'g.*

Lt. Col. D. L. CLINCH,  
*or Officer com'g on the Chatahoochee.*

A true copy:

ROB. R. RUFFIN,  
*Aid-de-Camp.*

No. 20.

*General Gaines to Commodore Patterson.*

FORT MONTGOMERY, *May 22, 1816.*

SIR: By a letter I have received from Lieutenant Colonel Clinch, commanding a battalion of the 4th regiment of infantry on the Chatahoochee, I learn that, in the early part of the present month, a party of Indians surprised and took from the immediate vicinity of his camp two privates sent out to guard a drove of beef cattle purchased for the subsistence of the troops. The cattle, amounting to thirty head, were also taken. The Indians were pursued forty-five miles, on a path leading to St. Mark's, but, being mounted, and having travelled all night, escaped with their prisoners and booty.

This outrage, preceded by the murder of two of our citizens, Johnson and McGaskey, by Indians below the lines, and followed by certain indications of general hostility, such as the *war dance*, and drinking *war physic*, leaves no doubt that we shall be compelled to destroy the hostile towns.

The detached situation of the post which I have ordered Lieutenant Colonel Clinch to establish near the Appalachicola will expose us to great inconvenience and hazard in obtaining supplies by land, particularly in the event of war, as the road will be bad, and the distance from the settlement of Georgia near one hundred and fifty miles.

Having advised with the Commander-in-Chief of the division upon this subject, I have determined upon an experiment by water, and for this purpose have to request your co-operation; should you feel authorized to detach a small gun-vessel or two as a convoy to the boats charged with our supplies up the Appalachicola, I am persuaded that, in doing so, you will contribute much to

\*Thirty thousand rations have been ordered from New Orleans up the Appalachicola, and Commodore Patterson requested to send a convoy of one or two gun-vessels.

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the benefit of the service, and accommodation of my immediate command in this quarter. The transports will be under the direction of the officer of the gun-vessel, and the whole should be provided against an attack by small arms from shore. To guard against accidents, I will direct Lieutenant Colonel Clinch to have in readiness a boat sufficient to carry fifty men, to meet the vessels on the river and assist them up.

Should you find it convenient to send a convoy, I will thank you to inform me of the date of its departure, and the time which, in your judgment, it will take to arrive at the mouth of the river, (Appalachicola.)

Enclosed you will receive the best account I can give you, from the information I have received of the negro fort upon the Appalachicola. Should we meet with opposition from that fort, it shall be destroyed; and, for this purpose, the commanding officer above will be ordered to prepare all his disposable force to meet the boats at or just below the fort, and he will confer with the commanding officer of the gun-vessels upon the plan of attack.

I am, with great consideration and esteem, your obedient servant,

EDMUND P. GAINES,  
*Major General by brevet.*

Com. D. T. PATTERSON,  
*U. S. Navy, New Orleans station.*

No. 31.

*Commodore Patterson to Lieutenant Commandant Crawley.*

NEW ORLEANS, June 19, 1816.

SIR: The enclosed copy of a letter from Major General Gaines, commanding the United States military forces in the Creek nation, fully informs you of his situation, and his expectation of immediate commencement of hostilities on the part of those Indians.

In consequence of the information contained in that letter, I have promised the convoy therein requested; you will therefore take under your command gun-boat No. 149, and, with that letter for your guide, convoy the transports with ordnance, provisions, &c., up the Appalachicola and Chatahoochee, to such point or points as may be required, if practicable. Should you meet with opposition from the negro fort, situated, as stated in the letter, on the former river, the military commanding officer will have orders to destroy it, in which you will co-operate; the plan of attack to be concerted between yourself and him: the transports will be under your direction entirely.

In the event of hostilities between the Indians and the United States, you will, if practicable, afford any aid with your vessels in your power to the army. Remain in that river, and co-operate with them, until it shall be necessary to return here for provisions; but, if you cannot aid them in their operations, you will then return immediately, bringing with you the transports.

The transports will rendezvous at the Pass

Christian, and consist of the following vessels: schooner *Semilante*, laden with ordnance; schooner *General Pike*, laden with provisions.

By late information, the negro fort mounts only six pieces of cannon, with about one hundred men in and about it planting corn, and I apprehend no opposition from them whatever; in the event of your remaining to act with the army, you will communicate with me by mail through General Gaines. Should the boat, mentioned in General Gaines's letter, not meet you prior to your arrival at or near the negro fort, and you have cause to expect opposition, you will wait her arrival before you attempt to pass it.

Very respectfully, &c.

DANIEL T. PATTERSON.

Lieut. Com. CHARLES E. CRAWLEY,  
*U. S. cutter Fox.*

No. 22.

*Commodore Patterson to J. Loomis.*

NEW ORLEANS, June 19, 1816.

SIR: The enclosed despatch for Lieutenant Commandant Crawley is transmitted under cover to you, lest he might not arrive at the Pass Christian by the time the transports laden with ordnance, provisions, &c., mentioned to you verbally when here, shall arrive, and be ready to proceed to their place of destination; in which case, you will consider them as addressed to you, and act accordingly; in that event, you will take under your command gunboat No. 154, together with the transports, and proceed in execution of these instructions.

In the performance of the duties therein pointed out, it will be necessary to act with vigor and judgment; and you will refrain from any act of hostilities against the Spanish force, or violation of their rights and laws. You will make no delay in your departure from the Pass Christian, after the arrival there of No. 154 and the transports. Very respectfully, &c.

DANIEL T. PATTERSON.

Sailingmaster JAIRUS LOOMIS,  
*Com'g U. S. gunboat No. 149.*

No. 23.

*J. Loomis to Commodore Patterson.*

UNITED STATES GUN-VESSEL, No. 149,  
*Bay St. Louis, August 13, 1816.*

SIR: In conformity with your orders of the 24th of June, I have the honor to report that, with this vessel and No. 154, Sailingmaster James Bassett, I took under convoy the schooners *General Pike* and *Semilante*, laden with provisions and military stores, and proceeded for Appalachicola river; off the mouth of which we arrived on the 10th July. At this place I received despatches from Lieutenant Colonel Clinch, commanding the fourth regiment United States infantry, on the Chatahoochee river, borne by an Indian, requesting me to remain off the mouth of the river until he could arrive with a party of men to assist in getting up the transports; desiring me,

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also, to detain all vessels and boats that might attempt to descend the river.

On the 15th, I discovered a boat pulling out of the river, and, being anxious to ascertain whether we should be permitted peaceably to pass the fort above us, I despatched a boat with an officer to gain the necessary information; on nearing her, she fired a volley of musketry into my boat, and immediately pulled in for the river; I immediately opened a fire on them from the gun-vessels, but with no effect.

On the 17th, at 5 A. M. I manned and armed a boat with a swivel and musketry and four men, and gave her in charge of Midshipman Luffborough, for the purpose of procuring fresh water, having run short of that article. At 11 A. M. Sailingmaster Bassett, who had been on a similar expedition, came alongside with the body of John Burgess, ordinary seaman, who had been sent in the boat with Midshipman Luffborough; his body was found near the mouth of the river, shot through the heart. At 4 P. M. discovered a man at the mouth of the river on a sand bar, sent a boat and brought him on board; he proved to be John Lopaz, ordinary seaman, the only survivor of the boat's crew sent with Midshipman Luffborough. He reports that, on entering the river, they discovered a negro on the beach near a plantation; that Mr. Luffborough ordered the boat to be pulled directly for him; that on touching the shore he spoke to the negro, and directly received a volley of musketry from two divisions of negroes and Indians, who lay concealed in the bushes on the margin of the river; Mr. Luffborough, Robert Maitland, and John Burgess were killed on the spot; Lopaz made his escape by swimming, and states that he saw the other seaman, Edward Daniels, made prisoner. Lopaz supposed there must have been forty negroes and Indians concerned in the capture of the boat.

On the 20th of July, I received, by a canoe with five Indians, despatches from Colonel Clinch, advising that he had arrived with a party of troops and Indians at a position about a mile above the negro fort, requesting that I would ascend the river and join him with the gun-vessels.

He further informed me that he had taken a negro bearing the scalp of one of my unfortunate crew to one of the unfriendly Indian chiefs. On the 22d, there was a heavy canooding in the direction of the fort. On the 23d, I received a verbal message from Colonel Clinch, by a white man and two Indians, who stated that Colonel Clinch wished me to ascend the river to a certain bluff, and wait there until I saw him. Considering that, by so doing, a narrow and crooked river, from both sides of which my decks could be commanded, and exposed to the fire of musketry, without enabling me to act in my own defence, and also that something like treachery might be on foot, from the nature of the message, I declined acting, retained the white man and one of the Indians as hostages, and despatched the other, with my reasons for so doing, to Col. Clinch, stating that his views and communica-

tions to me in *future* must be made in writing, and by an officer of the army.

Lieutenant Wilson and thirteen men joined me on the 24th, to assist in getting up with the transports; he likewise informed me that Col. Clinch had sent the canoe the day before.

On the 25th, I arrived with the convoy at Duffell bluff, about four miles below the fort, where I was met by Colonel Clinch; he informed me that, in attempting to pass within gunshot of the fortifications, he had been fired upon by the negroes, and that he had also been fired upon for the last four or five days, whenever any of his troops appeared in view. We immediately reconnoitred the fort, and determined on a site to erect a small battery of two eighteen pounders to assist the gun-vessels to force the navigation of the river, as it was evident from their hostility we should be obliged to do.

On the 26th the Colonel began to clear away the brushwood for the erection of the battery; he, however, stated to me that he was not acquainted with artillery, but that he thought the distance was too great to do execution. On this subject we unfortunately differed totally in opinion, as we were within point-blank range; he, however, ordered his men to desist from further operations; I then told him that the gun vessels would attempt the passage of the fort in the morning, without his aid. At 4 a. m., on the morning of the 27th, we began warping the gun vessels to a proper position; at 5, getting within gunshot, the fort opened upon us, which we returned, and, after ascertaining our real distance with cold shot, we commenced with hot, (having cleared away our coppers for that purpose,) the first one of which, entering their magazine, blew up and completely destroyed the fort. The negroes fought under the English jack, accompanied with the red or bloody flag.

This was a regularly constructed fortification, built under the immediate eye and direction of Colonel Nicholls, of the British army; there were mounted on the walls, and in a complete state of equipment for service, four long twenty-four-pounder cannon; four long six-pounder cannon; one four-pounder field-piece, and a five and a half inch brass howitzer, with three hundred negroes, men, women, and children, and about twenty Indian warriors of the renegado Choctaws; of these, two hundred and seventy were killed, and the greater part of the rest mortally wounded, but three escaped unhurt; among the prisoners were the two chiefs of the negroes and Indians. On examining the prisoners, they stated that Edward Daniels, ordinary seaman, who was made prisoner in the boat on the 17th July, was tarred and burnt alive. In consequence of this savage act, both the chiefs were executed on the spot by the friendly Indians.

From the best information we could ascertain, there were 2,500 stands of musketry, with accoutrements complete; 500 carbines; 500 steel scabbard swords; 4 cases, containing two hundred pairs pistols; 300 quarter casks rifle powder; 762 barrels of cannon powder, besides a large quantity

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of military stores and clothing that I was not able to collect any account of, owing to an engagement made by Colonel Clinch with the Indians, in which he promised them all the property captured, except the cannon and shot.

The property captured on the 27th July, according to the best information we could obtain, and at the lowest calculation, could not have been less than \$200,000 in value; the remnant of the property, that the Indians did not take, was transported to Fort Crawford and to this place, an inventory of which I have the honor to transmit for your further information.

On sounding the river, I found it impassable for vessels drawing more than four and a half feet water; consequently, Colonel Clinch took the provisions from the General Pike into flats, and lightened the *Semilante*, so as to enable her to ascend the river as high as Fort Crawford. On the 3d August, after setting fire to the remaining parts of the fort and village, I left the river and arrived at this anchorage on the 12th current.

I cannot close this letter without expressing to you my entire approbation of the conduct of Sailingmaster James Bassett, commanding gun vessel No. 154, for his cool, deliberate, and masterly conduct, and the support I received from him in all cases of difficulty and danger. In fact, sir, every man and officer did his duty.

Very respectfully, &c.

J. LOOMIS.

Commodore DANIEL T. PATTERSON,  
*Com'g U. S. naval forces, N. O. station.*

No. 24.

*Commodore Patterson to the Secretary of the Navy*

NEW ORLEANS, August 15, 1816.

SIR: It is with great satisfaction I do myself the honor to transmit herewith a copy of the report of operations of two gun-vessels, under the command of Sailingmaster Jairus Loomis, despatched at the request of Major General Gaines, commanding the United States army in the Creek nation, to convoy two transports, laden with ordnance stores and provisions, up the rivers *Appalachicola* and *Chatahooche*, to Fort Crawford, for the use of the army; as also copies of the Major General's letter to me, and of my instructions to Mr. Loomis.

You will perceive by Mr. Loomis's statement that the unprovoked and wanton aggression committed by a party of negroes on his boats, as also their hostile disposition and conduct to the army and the gun-vessels, and their approaching the fort, evinced in the strongest manner their intention to dispute his passage past their fort, and rendered it necessary to silence their fire and capture the fort. The very able manner and short time in which this was so effectually accomplished, with a force so very inferior, reflects the greatest credit upon Mr. Loomis and the officers and men under his command, the ninth shot and *first hot* one producing the explo-

sion; and unless the fort had surrendered or been destroyed, it would have been impossible for the army to have received those supplies, of which they stood so much in need, and without which their operations against the hostile Indians must necessarily have been materially retarded, if not totally suspended; and it was from the very great importance, as detailed by General Gaines, that those stores and provisions should reach the army in safety, that I felt it a duty incumbent upon me, when thus called upon, to afford the requisite convoy for their protection.

The service rendered by the destruction of this fort, and the band of negroes who held it, and the country in its vicinity, is of great and manifest importance to the United States, and particularly those States bordering on the Creek nation, as it had become the general rendezvous for runaway slaves and disaffected Indians; an asylum where they were assured of being received; a stronghold where they found arms and ammunition to protect themselves against their owners and the Government. This hold being destroyed, they have no longer a place to fly to, and will not be so liable to abscond. The able manner in which this enterprise was conducted cannot but impress the hostile Indians also with a dread of our arms, and increase the confidence of those who are friendly; add to which, that the force of the negroes was daily increasing; and they felt themselves so strong and secure that they had commenced several plantations on the fertile banks of the *Appalachicola*, which would have yielded them every article of sustenance, and which would, consequently, in a short time have rendered their establishment quite formidable and highly injurious to the neighboring States.

The English union jack and red or bloody flags, under which they committed their unprovoked hostilities against the American flag, are in my possession, and I shall have the satisfaction of forwarding them to the Department by the first safe conveyance. It appears very extraordinary, and remains with the English Government to explain the authority for their flag being thus hoisted by a band of outlaws, as also their officer, Colonel Nicholls, having placed so strong a work, and with so large a supply of arms, (most of which were perfectly new and in their cases,) ammunition, and every other implement requisite to enable the negroes and Indians to prosecute offensive operations against the United States—in possession of negroes, too, known to be runaways from the United States; and that, too, some time after peace had taken place.

Herewith is transmitted a copy of the inventory of the articles saved from the explosion, designating those furnished the army for public use, and those brought off and deposited here.

I regret extremely the loss of Mr. Luffborough, killed in the service, who, though much indisposed, and having sent in his resignation to the Department, very handsomely volunteered his services and accompanied the expedition. Mr.

*Relations with Spain.*

Loomis reports his conduct in the highest terms of approbation.

I avail myself of this occasion, with great satisfaction, to recommend to the particular notice of the Department Sailingmaster Jairus Loomis and James Bassett, commanding the gunboats on this expedition, as highly meritorious officers.

I cannot but lament exceedingly the great loss of lives occasioned by the destruction of the fort, though caused by their opposition to a passage of the river, and hostilities most wickedly commenced upon a friendly flag, under which not the slightest aggression would have been offered them.

The course pursued in this service, and the result, will, I trust, meet the approbation of the President of the United States.

I have the honor to be, &c.

DANIEL T. PATTERSON.

Hon. B. W. CROWNINSHIELD,  
*Secretary of the Navy.*

No. 25.

*Governor Kindelan to G. Cockburn.*

ST. AUGUSTINE, EAST FLORIDA,  
*February 18, 1815.*

MOST EXCELLENT SIR: The support and protection which the subaltern officers of the troops under my command now on Cumberland Island afford to the runaway slaves of this province under my charge, inviting them to desert their masters and enlist as soldiers, with the tempting promise of the liberty which they will enjoy when once they are transported to His Britannic Majesty's colonies, have filled with consternation the peaceable inhabitants, subjects of His Catholic Majesty; to which may be added the aggravation offered them by the manner in which the restoration has been eluded, as to answer the claim which their masters make personally, by saying that they might take those that would accompany them voluntarily, is the same thing as to refuse their restoration; for where is the slave that will voluntarily return to slavery if left to his election? For my part, even if there did not exist that good understanding, concord, and friendship between our respective nations, I should feel very averse to suppose that the British Government, generous England, would tolerate in its subjects the spoliation of this property belonging to the pacific, industrious, and defenceless planter, not only of a friendly Power, but (excepting in certain cases) I conceive they would not permit it towards an enemy. I pronounce it as undeniable that this laudable maxim has ever been so religiously observed by civilized and enlightened people, that until now it has always been considered as an inviolable principle of the laws of nations.

This abuse or disorder, most excellent sir, from its important nature, demands from your Excellency the most prompt and efficacious remedy in your power, in order to do away those appearances of hostility which such unusual proceedings manifest, as well as to avoid the consequences

which must result from them, and which, for my part, I shall endeavor to obviate by every means in my power; requesting your excellency again to order the restoration, without restriction, of the aforesaid Spanish property, which I now demand of you, officially, for the second time.

Permit me to offer to your excellency, personally, my sentiments of high consideration, whose life I pray God to preserve many years.

SOB. KINDELAN.

His Exc'y GEORGE COCKBURN, &c.

No. 28.

*General Jackson to Governor Mazot.*

HEAD'QRS, DIVISION OF THE SOUTH,  
*Fort Gadsden, March 25, 1818.*

SIR: I have ordered a supply of provisions to be sent from New Orleans, via Pensacola, to Fort Crawford, on the Conecub. This route has been adopted as the most speedy one of provisioning one of my garrisons, which must be maintained during the present contest against our mutual enemies, the Seminole Indians; and I cannot but express a hope that no attempt will be made to interrupt the free passage of my transports to that post. I am not disposed to enter into any controversy with you on the right which our Government may claim to the free navigation of such watercourses as head within her limits, but flow through the territory of His Catholic Majesty; preferring to leave these subjects to be settled by those legally authorized. But as it is necessary for me to make use of the Escambia river in passing up provisions to the garrison at Fort Crawford, I wish to be distinctly understood that any attempt to interrupt the passage of my transports cannot be received in any other light than as a hostile act on your part. I will not permit myself for a moment to believe that you would commit an act so contrary to the interests of the King, your master. His Catholic Majesty, as well as the United States, are alike interested in chastising a savage foe, who have too long warred with impunity against his subjects as well as the citizens of this Republic; and I feel persuaded that every aid which you can give to promote this object will be cheerfully tendered.

I am, with sentiments of respect, your obedient servant,

ANDREW JACKSON,  
*Major General commanding.*

DON JOSE MAZOT,  
*Governor of Pensacola.*

No. 29.

*Governor Mazot to General Jackson.*

PENSACOLA, April 15, 1818.

MOST EXCELLENT SIR: Your excellency's letter of the 25th of last month has been delivered to me; also that of the 16th, in answer to mine of the 16th of February preceding. I now have the honor to acknowledge the receipt of both, and to reply to the former.



*Relations with Spain.*

In the month of May last, yielding to a spirit of conciliation, I gave permission to the schooner Victory, from New Orleans, to pass up the Escambia to the American fort with a cargo of provisions; prompted by the same sentiment, I gave a similar permission in January last to Captain Call, of the schooner Italiana, to proceed to the same place; and subsequently, pursuing the same friendly and conciliatory feeling, I allowed Lieutenant Eddy, belonging to the garrison of the fort above alluded to, who had been commissioned for that purpose by Major Youngs, the commandant, to supply himself here with sixty barrels of provisions. The cargo of the schooner Italiana being still deposited here, I conceive that the introduction of the further supply requested by your excellency is not necessary at present. Notwithstanding this, as I infer from your excellency's letter that the said provisions are now on the way, and am disposed to grant the same indulgence as heretofore, while it is not less my duty to enforce the established regulations and restrictions, which require that the supplies should be consigned to a Spanish trading-house, which will undertake to forward them and secure the payment of the royal import and export duties, I will give permission for them to pass in like manner as the first; it being, however well understood that, neither now nor hereafter, the United States can pretend to or acquire any right in consequence of these indulgences, which are perfectly gratuitous, and granted solely in consequence of existing circumstances, which, as your excellency states to me, prevent the arrival of supplies to the said Fort Crawford, through any other channel. In addition, you are pleased to remark that you are not disposed to enter into any discussion with me on the subject of the right which may be claimed by the United States to the free navigation of the Escambia.

To a discussion of this nature I am no less averse than your excellency; because it is one not within my province, and because it is my duty, as a subordinate officer, to conform to the orders of my superior; therefore, until I receive orders to the contrary, I am bound, in reference to this point, strictly to adhere to the existing treaties between the United States and Spain. On referring to the last treaty of amity, limits, and navigation, I perceive nothing that stipulates the free navigation of the river alluded to; but, on the contrary, that the sovereignty of the King, my master, in and over all the territories, coasts, rivers, ports, and bays, situate to the south of the thirty-first degree of north latitude, is solemnly and explicitly acknowledged by the United States; and if, in consideration of the present extraordinary circumstances, further momentary concessions are required, I request your excellency to have the goodness to apply for that purpose, in future, to the authority on whom they may depend, as I am wholly unauthorized in this matter.

God preserve you many years.

JOSE MAZOT.

His Exc'y Gen. ANDREW JACKSON.

15th Con. 2d Sess.—63

True copies of the documents deposited in this command. Pensacola, May 2, 1818, in the absence of the secretary, by indisposition:

BUENA. DUBREUIL.

No. 30.

*General Jackson to Governor Mazot.*

HEADQ'RS, DIVISION OF THE SOUTH,  
ST. MARK'S April 27, 1818.

SIR: After I left this post for St. Juan, to disarm and destroy the mutual enemy of Spain and the United States, a small schooner with men and supplies arrived from Pensacola, and was taken possession of and detained by my officer left in command. This vessel has been liberated, with all her effects, excepting some clothing of the United States, (unaccompanied with any invoice,) and which has been detained as supposed to be a part of that taken in the boat, within the territory of this Republic, in which Lieutenant Scott, of the United States Army, with his command, was so inhumanly massacred.

I regret being compelled to state to you that from the papers and other proofs taken at San Juan, the quantity of American cattle found at St. Marks, and purchased by me from the commissary of the post, and the intercourse kept up between this post and the hostile Indians, there is too much ground to believe that the Indians have been encouraged, aided, and abetted by the officers of Spain in this cruel war against the United States. Proof positive exists that the Indians were supplied with ammunition by the late commandant of St. Marks. The United States clothing being found on board of a vessel in the employ of the Government of Spain, sailing from Pensacola direct from this post, compels me to call on you for a statement in what manner you came possessed of said clothing.

The good understanding that so happily exists between His Catholic Majesty and the United States formed a just ground to believe that his agents would have discountenanced this cruel and savage war, waged against the citizens of this Republic. Too weak to comply with her treaties with the United States, or chastise her own savage subjects waging war against a friendly nation, it was scarcely to be believed that her officers would have been detected in aiding and abetting this enemy, assisting him with intelligence of our movements, and purchasing of him the property depredated of us. America, just to her treaties, and anxious to maintain peace with the world, cannot and will not permit such a savage war to be carried on in disguise any longer.

Asylums have been granted to the persons and property of our Indian foe, (fugitives from the territory of the United States.) Facilities deemed by me necessary to terminate a war, which, under existing treaties, should have been maintained by Spain, for feeding my troops, and liberating the subjects of Spain imprisoned by the Indians, have all been denied by the officers of His Catholic Majesty. All these facts prove the unjust conduct of Spanish agents in the Floridas.

*Relations with Spain.*

It cannot be longer tolerated; and although a Republic fond of peace, the United States know their rights, and at the expense of war will maintain them.

ANDREW JACKSON,  
*Major General Commanding.*

Don JOSE MAZOT,  
*Governor of Pensacola.*

No. 31.

*Governor Mazot to Major Youngs.*

PENSACOLA, April 27, 1818.

SIR: Your letters of the 27th instant, dated Camp on the Escambia and Fort Crawford, enclosing a proclamation, were this day delivered to me at 3 o'clock P. M. by an artificer, (a man of color,) whose immediate return does not allow me at present to reply particularly to them; and I shall only state that the few peaceful Indians who were at this place and in its neighborhood left it on the 26th, and at daybreak several of them were murdered by the troops of the United States, and among them some women and children. As I am unable to account for this act, and the violation resulting from it, I have to inform you that I shall transmit an account of the whole transaction to my superior; and I hope that in the meantime you will not permit any further hostilities to be committed on any pretence in this territory; and, in case the Indians give any reason for complaint, that you will inform me of it, that I may chastise them for it, as far as it depends on my authority.

If there be Indians still remaining in this territory, I will have them sought for, and communicate your letter to them, and advise you of the result. I do assure you on my word that your statement of the aggressions committed by the Indians is the first intelligence I have had of it, and that when I agreed to the passage of the escort of which you speak, those Indians of whom Lieutenant Eddy was apprehensive were the only ones pointed out to me.

I must repeat to you that all my wishes and efforts are directed to preserving the peace happily subsisting between our Governments, and relying on your friendly sentiments towards me, I offer you in return the assurances of mine.

God preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS,  
*Com'g U. S. troops on the Escambia.*

*Governor Mazot to Major Youngs.*

PENSACOLA, April 30, 1818.

SIR: In consequence of the request contained in your letter of the 27th instant, I assembled the principal chiefs of the Upper Creek towns of Colome, Canaan, Corvalle, and Forsythe, and communicated its contents to them; they all replied that they had long been very unhappy and miserable, without shelter or country; but that, at last, by the advice of a good friend, they had found one; that they all cheerfully adopted it,

and were very grateful for the offers you had made them. These Indians amount to about eighty-seven, including women and children. I have settled that they should divide into two companies, and they will set out as soon as your answer is received, which they think it prudent to keep, as you will, when informed of their acceptance of your offer, be enabled to give proper orders for their safety on their journey, and their avoiding any unpleasant rencontre with the Choctaws, who, if not duly informed of it, might attack them; in which case, the measures taken for the peaceful arrangements that we both have so much at heart would be defeated.

Opahi-hola, an Alabamian chief, on account of his age and infirmities, will remain here for the present with his family. I have given orders for his relief, and pledge myself for his good behavior.

You will always find me ready to unite with you in such measures as may be beneficial to our respective countries, and are conformable to existing treaties.

I renew the assurances of my respect, and pray God to preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS.

No. 32 a.

*The Governor of West Florida to his Excellency Andrew Jackson.*

PENSACOLA, May 18, 1818.

MOST EXCELLENT SIR: On the 10th instant I received your letter of the 27th of April last, informing me that on board a small schooner despatched from this port for Appalache there were found several articles of clothing, such as are used by the United States troops, and which you suppose were taken in the boat in which Lieutenant Eddy was unfortunately cut off, together with his escort. You inquire of me how I became possessed of those articles of clothing, and you proceed to state that you regret the necessity which compels you to inform me that, from written and other proofs obtained at St. Johns, the quantity of American cattle found at St. Marks, and the active communication kept up between the latter place and the hostile Indians, there appears sufficient ground to believe that they were encouraged and excited to this savage warfare against the United States by the Spanish officers. You add that there exist positive proofs that the Indians were supplied with ammunition by the late commandant of St. Marks; and you conclude by declaring that shelter and protection have been given at this place to the persons and property of the Indians who are in hostility with the United States, and have fled from the American territory; that these facts, and the refusal to allow the passage of provisions for the supply of your troops, fully evince the unjust conduct of the Spanish agents in the Floridas.

To these several charges I shall reply in their order, frankly, unreservedly, and unequivocally. The first relates to the articles of clothing found

*Relations with Spain.*

on board the schooner *Maria*, and detained on the presumption of their being the property of the United States. A part of these, as is proved by the copy No. 1, was purchased at New Orleans in May last; a part came from Havana and a part was bought here; all which being fully substantiated, the charge is consequently disproved, and your inquiry satisfactorily answered. The second is more serious, and refers to the conduct of the commandant of St. Marks, at a recent period. I immediately demanded of him an account of his proceedings; his report of which is enclosed under the No. 2. But as I am desirous that you would bring forward unquestionable proof of the misconduct of that officer, I have to request you to furnish me with it, in order that, if his misconduct be established, he may receive condign punishment; hereby assuring your excellency, with that sincerity that belongs to me, that in such an event he has acted entirely contrary to his instructions; and that on receiving the evidence required he shall be tried by a court martial, and punished in an exemplary manner, according to the merits of the case. Your sense of equity will, however, satisfy you that the Spanish Government cannot be held responsible for the misconduct of its agents while it does not support them in it, nor tolerate their errors when proved. Your subsequent complaints are directed personally and pointedly against me, and relate to the shelter and protection alleged to have been afforded to the persons and property of fugitive Indians, and to the passage of provisions up the Escambia. The best mode of giving a satisfactory answer to these charges will be to offer you a brief and faithful statement of facts. With respect to the Indians, you have assuredly not been correctly informed; for, although some few remained permanently here, chiefly consisting of women and children employed in supplying the inhabitants with fish, fuel, and other trifling articles, and had been living here long before the present war with the Seminoles, it is a fact that, when I sent round to assemble them for the purpose of communicating to them the proposal of Major Youngs, their whole number amounted but to eighty-seven; and surely the small proportion of men among them, unarmed, miserable, and defenceless, could not be considered as objects of hostility to the United States; a proof of which was shown in the continual passage of American citizens to this place, travelling unarmed and alone, without a single instance of accident happening either to their persons or property. In regard to the passage of provisions up the Escambia, so far from suspending it, I facilitated it, as far as depended on me, even to committing myself; since, as a subordinate officer, I could not becomingly allow a proceeding which was not fully authorized. I therefore, in consideration of circumstances, took that responsibility upon myself, as I stated to your excellency in my letter of the 15th ultimo, by Major Perault, to which I beg your reference. But, with a view to the benefit of this place, by means of a free intercourse with the interior, I hereby

declare that in future the merchants and traders belonging to it shall pass freely from hence to Fort Crawford, and other places on the frontier, and transport all necessary supplies, either by land or water; by which means it is to be expected they will be abundantly provided, and your excellency entirely satisfied.

In offering you these explanations and details, I flatter myself I have given so full and satisfactory an answer to your excellency's letter as to leave no doubt of the sincerity of my intentions, and at the same time to have presented a certain pledge that it is my earnest wish to contribute, by every means in my power, to the maintenance of the good understanding happily subsisting between our two Governments.

God preserve you many years.

JOSE MAZOT.

His Exc'y ANDREW JACKSON.

PENSACOLA, May 18, 1818.

A true copy of the original deposited in the office of the secretary of the government of this Province, under my charge.

CARLOS REGGIO.

No. 32 b.

*Certificates from New Orleans and Pensacola.*

PENSACOLA, May 31, 1818.

Having observed, among other things, what is stated to you by Major General Andrew Jackson, of the United States troops, in his note of the 27th April last, communicated to me in yours of the 13th instant, in which you request me to inform you of what description the articles referred to by the said General were, also by whom the coats worn by the men belonging to the gray and brown companies (*de pardos y morenos*) from the Havana, under my command, were sold or brought to this place, they being the same uniform as that worn by the troops of the United States, I have to inform you, in reply, that with respect to the articles of clothing shipped on board the schooner *Maria*, for the supply of a detachment from the aforesaid companies at Appalache, and detained by General Jackson, they consisted of fifteen four-point woollen blankets, and were brought here in His Majesty's schooner brigantine "*El Almirante*," arrived in this port 2d January last; twenty-five pairs of French shoes, bought here of Don Henrique Grandpré, as per exhibit No. 1, annexed; fifteen common negro hats, bought of Don Henrique Michelet, per exhibit No. 2; and twenty shirts of Crea linen, and the same number of pantaloons, received by the above-named vessel, with the exception of three or four of the latter articles, which were made in North America for the use of their troops, and came into my possession in the manner I shall presently explain to you. All which clothing I requested you, in mine of the 7th April, to be pleased to direct the proper department to have inserted in the clearance, as being for its account and risk. By the voucher annexed (No. 3) you will perceive, that on the 1st and 4th of May last, and 29th of July, there were shipped to me

*Relations with Spain.*

by Don Pedro Dalharte y Clareria, merchant of New Orleans, the hundred and thirty-one coats of the uniform reformed there, according to his letter of advice; also, twenty-eight pair of shoes, twenty Russia sheeting waistcoats, two hundred and fifty-three leathern caps for the use of the chasseurs, and a quantity of half boots and leather stocks; all which articles were purchased from the military storekeeper at New Orleans, and brought here in the schooners Maria and Jalousie, under the charge of their skippers, Bartelome Alberty and Jose Medina, who included them in the manifests they exhibited on their arrival, and the duties on them were secured, as appears by their appraisement by the proper officers on the 19th May and 11th August last. Hence, it is evident that the conjecture formed by General Jackson that the articles of clothing detained by him were part of those captured from the escort of Lieutenant Scott, at the time he was cut off within the limits of the territory of the Republic, is entirely disproved; inasmuch as the unfortunate accident of that officer and his escort happened on the Appalachicola in December last, and the articles of clothing alluded to were purchased in New Orleans in May and July preceding, as is fully proved by the letters of advice and invoices comprised in exhibit No. 3, to which I have referred above.

God preserve you many years.

BENIGNO G. CALDERON.

To JOSE MAZOT.

(No. 1.)

I hereby certify that, on the 10th of February last, I sold to Captain Don Benigno Garcia Calderon, commanding the gray and brown companies from Havana, two hundred and eighteen pairs of French shoes, iron shod, for the use of the men belonging to the said companies; and, at the request of the said officer, I have delivered him the present certificate, dated at Pensacola, this 18th day of May, 1818.

HENRIQUE DE GRANDPRE.

(No. 2.)

I hereby certify that, on the 12th of February last, I sold to Captain Don Benigno Garcia Calderon, commanding the gray and brown companies from the Havana, nine dozen round negro hats, for the use of the men belonging to the said companies; and, at the request of the said officer, I have delivered him the present certificate, dated at Pensacola, this 18th of May, 1818.

HENRIQUE MICHELET.

(No. 3.)

NEW ORLEANS, April 30, 1817.

To DON BENIGNO GARCIA CALDERON, *Pensacola*:

Enclosed you have an account of the cost and charges of fifty-four shirts and twenty-eight pairs of shoes, for amount whereof you are debited in account of fifty-three dollars. Although I had no orders from you for the shirts, I was induced to purchase them by the low prices and the proba-

bility of your employing them to advantage. In the sack they are put up in, you will find a uniform coat which has been re-formed here, and can be set by the storekeeper at twelve rials. I think it would answer. There are one hundred and twenty of them. I am offered by the same storekeeper fifty field-tents, nearly new, at three dollars; and a parcel of strong leathern caps, such as are worn by the chasseurs, that can be set at less than two rials, of which there about two hundred. The storekeeper having made me a second offer of the shirts, I proposed to take them in barter for coffee at ten or eight and a half; even at ten I am persuaded it would be a good bargain, as it would give the opportunity of putting off the coffee, its inferior quality making it rather dull sale. The quality most called for is the green, which is much superior, and that hardly commands twenty dollars. The cost and charges of the said shipment of shirts, by schooner Maria, are carried to your debit in account current, viz., \$176 13.

*Account of costs and charges of sundries shipped on board the schooner Maria, Captain Alberty, for account and risk of, and to be delivered to, Don Benigno Garcia de Calderon, Pensacola, viz:*

C No. 1.	1 sack containing 28 pairs shoes,		
	at 6 rials - - - -		\$21 00
2.	1 sack containing 54 shirts, at		
	4 rials - - - -		27 00
	1 coat - - - -		1 50
	Sack, twine, and packing -		1 00
			50 50
	Commission, 5 per cent. - -		2 50
	Amount to the debit of Don B.		
	Garcia Calderon - - - -		53 00

P. DALHARTE Y CLARERIA.

NEW ORLEANS, May 1, 1817.

*Account of costs and charges of ten sacks, containing one hundred and thirty-one coats, shipped on board the schooner Maria, Captain Granperta, for the risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz:*

C No. 3 a 12.	10 sacks containing 131		
	coats, at 10 rials - -		\$163 75
	Sacks, twine, and packing -		4 00
			167 75
	Commission, 5 per cent. -		8 38
	Amount to the debit of		
	Don Benigno Garcia		
	Calderon - - - -		176 13

P. DALHARTE Y CLARERIA.

NEW ORLEANS, May 29, 1817.

To DON BENIGNO G. DE CALDERON, *Pensacola*:

NEW ORLEANS, July 29, 1817.

At the receipt of yours, the caps were already agreed for, with some other articles of clothing,

*Relations with Spain.*

amounting, as per invoice annexed, to \$317 16½, to your debit in account. I suspended the purchase of the hats, which run from eight to ten dollars per dozen.

*Account of costs and charges of sundries, shipped in two hogsheds, three barrels, two cases, and one sack, on board the schooner Jalousie, Jose Medina, master, for account and risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz :*

25 cottonade pantaloons, at 50 cents	-	\$12 50
236 flannel under-waistcoats, at 37½ c.	-	88 50
253 caps, at 18¾ cents	-	47 43¾
A parcel of leathern gaiters and spat- terdashes	-	15 00
20 Russia sheeting short vests	( 106	
51 pantaloons	pieces }	106 00
35 cotton shirts	at \$1 }	
29 do do, at 75 cents	-	21 37½
Cord, cooperage, &c.	-	3 50
		302 06½
Commission, at 5 per cent.	-	15 10

Amount to the debit of Don Benigno

Garcia Calderon - - - \$317 16½

P. DALHARTE Y CLARERIA.

We, the subscribers, merchants of Pensacola, hereby certify that the foregoing paragraphs of letters of advice and invoices are true copies of the originals exhibited to us by Captain Don Benigno Garcia Calderon, commanding the gray and brown companies from Havana, and that the signatures thereto subscribed are in the true handwriting of Don Pedro Dalharte y Clareria, a citizen of the United States, and merchant at New Orleans.

In testimony whereof, we have given the present certificate, at the request of the aforesaid Captain Calderon, at Pensacola, this 18th day of May, 1818.

HENRIQUE MICHELET,  
VIC. DE ORDOZGOITTI,  
VTE. BASTLONGUE.

No. 32 c.

*Defence of F. C. Luengo, Commandant of St. Mark's.*

PENSACOLA, May 14, 1818.

In replying to your letter of yesterday's date, in which, among other things connected with its subject, you communicate to me the several points treated of by Major General Jackson in his letter of the 27th ultimo, and on which he founds his assertion that the Indians not only received succors at Appalache, but that they were excited to commit hostilities against the forces of the United States, and of whose movements they were exactly informed, I have to express my utter astonishment at this business, in which imposture and malevolence have been equally employed to criminate the parties alluded to in the General's letter. It is stated by the General, that, from written and other proofs obtained at St. John's, the number of American cattle found

at St. Mark's, and brought by the commissary there, and the constant intercourse kept up between that place and the hostile Indians, there appear sufficient grounds to believe that they were encouraged and excited to this savage warfare by the Spaniards. To this I have to reply that it has never come to my knowledge that any person belonging to the fort had any connexion, directly or indirectly, with St. John's. And although it is true I wrote two letters to Mr. Arbuthnot, an English merchant, one of them was merely to thank him for the three letters he wrote me, informing me of the proceedings of the insurgents at Amelia Island, and of Captain Woodbine, who, I informed you by express, was one of the two chiefs who were hung the day I left Appalache; and the purport of the other was to request him to come or send immediately for the property, which, at the request of the Indian chiefs, and to avoid increasing their suspicions, I gave permission to be deposited in the fort, and to withdraw O-Kelagne, in whose custody that property was placed. And although, in taking this step, I ran the risk of incurring the resentment of both parties, yet it was one which did not seem likely to incur suspicion. Nor does the charge of a purchase of an extraordinary number of American cattle, alleged to have been made at St. Mark's, authorize greater room for suspicion, since it is notorious that, from the time of its establishment, its supplies were obtained from the droves of cattle brought there for sale by the Indians, who had very large ones towards Mickasuky and the neighboring country. It seldom happened that we considered ourselves as fully supplied for several months together; and if the supplies were in fact derived from the plunder committed on the Americans, the sellers took good care to conceal that fact, as they were known to have droves, and were in the habit of bringing them for sale. It may be remarked that very little care was manifested by the American commandant or magistrate within whose district these excesses were committed, to be placed in a situation to complain of them to the commandant of St. Mark's, and to send him the marks of the cattle, which would have shown from whence they came, and have tended to prevent the purchase of them. With respect to the intercourse kept up between the fort and the Indians, complained of by General Jackson, and the excitement and encouragement given them by the Spaniards to commit hostilities, the charge is altogether inadmissible. An intercourse and good understanding with the Indians were at all times strongly recommended by the Government, and never were they more necessary than in the circumstances in which we have lately been placed at the fort; General Jackson having founded on them a demand of its occupation by his troops, and suggesting that such a step could not fail to receive the approbation of His Catholic Majesty. In the same letter, he stated that he had been informed by an Indian woman, a prisoner, that the hostile Indians and negroes had received considerable supplies of ammunition at the fort. I pre-

*Relations with Spain.*

sumed that I had convinced him of the contrary in my answer, in which I represented to him that no one better than Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies, could undeceive him on this point, as well as on that of the counsel I uniformly gave them to avoid the destruction that awaited them, and which I foresaw from the first. But it appears he is not yet satisfied, and persists in his charge. A reference to the returns of the public storekeeper will show that, from the month of May last, and prior to the receipt of your orders, there had been issued to a few of the most noted chiefs, and that merely from motives of policy, only three pounds of powder, three pounds of ball, and fourteen flints. The interpreter, Juan Sandoval, and his son, Francisco, through whom I communicated with the Indians, can testify to the truth of this statement—a step which I request of you to take in support of my refutation of General Jackson's charge. He cannot but know that a short time before the negro fort on the Appalachicola was blown up, all the chiefs of the neighboring tribes went there and supplied themselves with powder and ball, left for them by the English; and that at Mickasuky, and the huts thereabouts, there was a considerable quantity. Having thus obtained a large supply of the kind of powder and ball they most esteemed, they set little value on ours, which, in fact, they view with such indifference that it is only a chance hunter among those who come to the fort with venison, wild fowl, &c., that is willing to use it. And although, as I formerly stated in an official communication, a supply was repeatedly demanded of me by the chief Kinache, with a view to prove, by the refusal of it, that the American interest prevailed in the fort, he did not succeed in it. In consequence, we, whom they considered as American partisans to the last, were reproached with it, and have even to put up with some impertinences from them. I shall, however, in a strict adherence to truth, and because the circumstances may have given birth to these suspicions, proceed to state that the chief Pelisacho, who was executed, received, among things, at the fort, from Mr. Arbuthnot, an English merchant, when he came from Suwanee, to request aid against the negroes, from whom he apprehended an attack, a small barrel of powder, which might contain from twenty to twenty-five pounds, and was placed, with other property, under the charge of O-Kelaghe. What he did with it, I know not; but I well know that the chief caused me extreme perplexity and vexation, by surrounding the fort with a body of four or five hundred Indians.

I never had an idea that he employed it against the Americans, but that he used it in the purchase of peltry, which he was collecting for the said Arbuthnot at the time of the arrival of the Americans. The charge alleged against the officers at St. Mark's in exciting and stirring up the Indians, and in giving them information of the movements of the Americans, is the effect of a disordered imagination; for how or whence could

their movements be better known at the fort than from the Indians themselves? Thither they came and went, and passed and repassed incessantly; and their reports were so various that they deserved very little attention; as a proof of which, nothing certain was known of their operations until the different columns of their troops appeared at the mouth of the Pinar; and, although three of their boats were at anchor there for three or four days, they kept English colors flying until the day before the arrival of the army. My different communications to you are pledges that I took no part in the contest between the Americans and the Indians. I, however, had great cause of complaint against the latter. How, then, is it possible to believe that I gave them that aid of which General Jackson complains; or how can the steps I took to liberate Messrs. Edmund Doyle and William Hambly, by which I exposed myself and my garrison to the vengeance of the Indians, be reconciled with the idea of affording them succor and aid, or the fact of rescuing from them, at the most critical moment, an American soldier whom they would otherwise have put to death? I leave it to impartial observers to decide if these be not proofs of the existence at St. Mark's of a bias in favor of the American interest; and of this I trust General Jackson will be thoroughly convinced on deliberately reflecting upon the subject. I shall not attempt to deny that I have observed towards those barbarians a policy which had the appearance of a warm friendship, but by which I have incurred a considerable expense. If, however, my situation be attentively examined in its different points of view, it will be seen that all this was necessary to restrain them from doing what they had at one time premeditated, on the pretext I have just alluded to, and on others suggested to them by some persons who had gone from hence to those parts of the country. Although I have, as I conceive, given entire satisfaction on all the points embraced by Major General Jackson, I beg leave to request that, for the purpose of corroborating my statement, you will be pleased to give orders for having the declarations taken of the interpreter and of his son, of the subaltern Don Miguel Ordóñez, of Don Anastasia Montes de Oca, the public storekeeper, and of Surgeon Don Diego de Barrios, as the persons who have the necessary knowledge of the subjects in question.

God preserve you many years.

F. CASO Y LUENGO.

To Don JOSE MAZOT.

A true copy:

JOSE MAZOT.

No. 33.

*Governor Mazot to General Jackson.*

PENSACOLA, May 23, 1818.

Having received information that you have passed the frontiers with the troops under your command, and are now within the territory of this province of West Florida, which is under my Government, I have solemnly to protest against this proceeding as an offence against my

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Sovereign; and I do exhort you, and require of you forthwith to withdraw from the same; in default of which, and in case of a continuance of your aggression, I shall repel force by force.

In this event, the consequences will doubtless be the effusion of blood, and the interruption of the good understanding which has hitherto subsisted between our two nations; but as the party repelling an insult is never deemed the aggressor, you will be responsible before God and men for all the fatal consequences which may ensue.

God preserve you many years.

JOSE MAZOT.

No. 34.

*General Jackson to Governor Mazot.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*On the line of march, May 23, '18.*

SIR: The southern frontier of the United States has, for more than twelve months, been exposed to all the horrors of a cruel and savage war. A party of outlaws and refugees from the Creek nation; negroes who have fled from their masters, citizens of the United States, and sought an asylum in Florida; and the Seminole Indians inhabiting the territory of Spain, all uniting, have raised the tomahawk, and, in the character of savage warfare, have neither regarded sex nor age. Helpless women have been massacred, and the cradle crimsoned with the blood of innocence. The United States, true to their engagements, and confiding in the faith of Spain to enforce existing treaties, never entertained a doubt but that these atrocities would early attract the attention of the Spanish Government, and that speedy and effectual measures would have been adopted for their suppression. Under this persuasion a cordon of military posts was established, to give immediate protection to such of our frontier settlers as were peculiarly exposed, and strict injunctions issued to the American officers to respect the territory of Spain, and not to attempt operations within its limits. These instructions were most scrupulously observed; and, notwithstanding the inactivity of the American troops had encouraged the Indians to the most daring and outrageous acts of violence against our citizens, the Government of the United States was still disposed to respect the territory of Spain, and confide in the ability of the Spanish Government to execute existing treaties, until advised through you that, with every disposition, the Spanish authorities had not the power of controlling the Indians in Florida; that their acts of late were viewed as equally hostile to the interests of Spain as those of the United States; that Spanish subjects were not exempted from the evils of which we complained; and that the negro establishments on the Appalachicola and St. Juan rivers were founded by British agents, contrary to the will of Spain. These representations determined the President of the United States to adopt effectual measures to restore tranquillity to the southern frontier of the American Republic; and, pursuant to his orders, justifiable by the immutable

laws of self-defence, I have penetrated into Florida, reduced to ashes the Seminole villages, destroyed their magazines of provisions, beaten their warriors whenever they hazarded a contest, dispersed some, and expelled others across the river.

In the course of my operations it became necessary to visit the Spanish fortress of St. Mark's. Entering the territory of Spain to fight her battles, to relieve from bondage her subjects, and to chastise an Indian tribe whom she acknowledged, under existing treaties, she was bound to preserve at peace with the United States, I had every reason to expect that the American army would have been received as friends, and every facility afforded to insure success to operations so interesting to both Governments.

My expectations have not been realized. It had been reported to me, direct from you, that Fort St. Mark's had been threatened by the Indians and negroes; and you expressed sincere apprehensions, from the weakness of the garrison and defenceless state of the work, for its safety. From other sources to be relied on, the same information had been furnished me. It became necessary, therefore, to anticipate the movements of the enemy, and amicably to get possession of a work, dislodging the enemy from which might have cost me much precious blood. On entering St. Mark's evidence of the duplicity and unfriendly feelings of the commandant evinced itself. I found that the gates of this fort had been thrown open to the avowed savage enemies of the United States; that councils of war had been permitted to be held within his own quarters by the chiefs and warriors; that the Spanish storehouses had been appropriated to the use, and were then filled with goods belonging to the hostile party; that cattle knowingly plundered from citizens of the United States had been contracted for and purchased by the officers of the garrison from the Spanish thieves; that foreign agents had free access within the walls of St. Mark's; and a Mr. Arbuthnot, condemned and executed as the instigator of this war, an inmate in the commandant's family.

From this fort was information afforded the enemy of the strength and movements of my army by the said Arbuthnot, the date of departure of express noted by the Spanish commissary, and ammunition, munitions of war, and all necessary supplies furnished.

On my return from my operations east, your letter was received, positively refusing to permit (unless exorbitant duties were paid) any provisions passing up to the American fort on the Escambia. Connected with this strong indication of your unfriendly disposition on your part, I have it, from the most unquestionable authority, that the city of Pensacola has, for some months past, been entirely under the control of Indians; that free ingress and egress are permitted to the avowed savage enemies of the United States; that supplies of ammunition, munitions of war, and provisions, have been received by them from thence; that, on the 15th of April last, there were no less than five hundred Indians in Pensacola, many of them known to be hostile to the United

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States, and who had but lately escaped my pursuit. The late massacre of eighteen individuals on the Federal road was committed by Indians direct from their return to Pensacola, who were received by you, and transported across the bay, to elude the pursuit of the American troops. The Americans returning, the savages were permitted to return. An Indian, wounded in pursuit by a party for having killed a citizen of the United States, was openly, in the sight of many Americans, received by you, and every comfort administered. Such practice, if authorized by the King, would justify me in open hostilities. Disposed, however, to believe that it was one of the unauthorized acts of his agents, I deem it politic and necessary to occupy Pensacola and the Barancas with an American garrison until the Spanish Government can be advised of the circumstance, and have force sufficient to maintain, and agents disposed to enforce existing treaties.

This is the third time the American troops have been compelled to enter Pensacola from the same causes. Twice had the enemy been expelled, and the place left in quiet possession of those who had permitted the irregular occupancy. This time it must be held until Spain has the power or will to maintain her neutrality. This is justifiable on the immutable principles of self-defence. The Government of the United States is bound to protect her citizens; but weak would be all her efforts, and ineffectual the best advised measures, if the Floridas are to be free to every enemy, and, on the pretext of policy or neutrality, Spanish fortresses are to be opened to their use, and every aid and comfort afforded. I have been explicit, to preclude the necessity of a tedious negotiation. My resolution is fixed, and I have strength enough to enforce it. My army now occupies the old Fort St. Michael, commanding Pensacola. If the town and Barancas are peaceably surrendered, an inventory of all the property, ammunition, arms, &c., shall be taken by officers appointed by both parties, and the amount receipted for by me to be accounted for by the American Government. The property of Spanish subjects shall be respected; their religion and laws guaranteed to them; the civil government permitted to remain as now established, subject to the control of the military authority of the United States; the ingress and egress open to all individuals; commerce free to the subjects of Spain, as usual; and the military furnished with transportation to Cuba.

If the peaceable surrender be refused, I shall enter Pensacola by violence, and assume the government until the transaction can be amicably adjusted by the two Governments. The military, in this case, must be treated as prisoners of war.

The proof supporting the accusation against your official station will justify this procedure.

In reply to your communication of the 22d instant I have only to observe, that the clothing detained will be a subject for future friendly settlement.

How far the Indians permitted to remain in the

neighborhood of Pensacola were friendly disposed to the citizens of the United States, is tested by the late massacre committed by them on the Alabama. The Red Ground chiefs, Muldecoxy and Holmes, avowedly hostile to the United States, were but lately seen in Pensacola, and a body of Indians desecrated, a few days since, in the vicinity of the Barancas, in presence of several Spanish officers. They have not delivered themselves up, and these Red Sticks who have surrendered were not advised to this measure by you, until intelligence of my movements had been received.

By a reference to my communications of the 25th March, you will see how far I have been the aggressor in the measure protested against.

You are there distinctly advised of the objects of my operations, and that every attempt on your part to succor the Indians, or to prevent the passage of my provisions in the Escambia, would be viewed in no other light than as hostile acts on your part.

You have done both, and exposed my troops to the severest privations, by the detention occasioned in the exaction of duties on my provision vessels in Pensacola. You have, therefore, been the aggressor, and the blood which may be shed by a useless resistance on your part to my demand will rest on your head. Before God and man you will be responsible.

This will be handed to you by my aid-de-camp, Captain Gadsden, by whom an answer is expected.

ANDREW JACKSON,

*Maj. Gen. commanding.*

DON JOSE MAZOT,  
*Governor of Pensacola.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Pensacola, May 24, 1818.*

SIR: The enclosed communication was forwarded to you by my aid-de-camp, Capt. Gadsden, last evening; not finding you, however, in Pensacola, its delivery was delayed.

I have entered Pensacola to provision my troops. I have only to add, that an immediate compliance with my demand is expected. Resistance on your part would be a needless sacrifice of men.

ANDREW JACKSON,

*Maj. Gen. commanding.*

DON JOSE MAZOT,  
*Governor of Pensacola.*

No. 35.

*Governor Mazot to General Jackson.*

FORT ST. CARLOS OF BARANCAS,  
*May 24, 1818.*

MOST EXCELLENT SIR: Your two notes, dated the 23d and on this day, were delivered to me at ten o'clock this morning, by your aid-de-camp, Captain Gadsden. Having, in mine of the 18th instant, answered the former in a satisfactory manner, I shall only add that, as to what relates to the Indians, you have been much misinformed, the facts alluded to by you being for the most



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part unfounded; in proof of which I have to state, that the only two Indians who have been here since the peace negotiated by me, exclusive of the eighty-seven sent off to Major Youngs, are the two who are in the jail, with three women and children; and, further, that long prior to your movements I had sent orders to Appalache, to prevent any succors being given to the Seminoles, and had also given public notice to the same effect in Pensacola, where those unfortunates had from time immemorial received regular supplies.

Your excellency is disposed to lay to my charge the blood which may be shed in consequence of my refusal to deliver up this province. A compliance with your demand would dishonor the close of my life and long military career; and I feel assured that, if placed in a similar situation, your conduct would be the same, from your natural desire to preserve unsullied your well-earned laurels.

Whatever motives may be assigned, no nation is authorized in violating the territory of another, before due representations have been made to its Government.

Your excellency has violated the Spanish territory at Appalache, by seizing on that fort and hoisting your flag—a proceeding in complete hostility with the good understanding subsisting between our respective Governments.

On the 21st instant, by your excellency's orders, Don Pedro Philibert and other inhabitants were made prisoners on their parole of honor, and this day, before Captain Gadsden's arrival at Pensacola, your army advanced upon it, and made prisoner, on his parole of honor, Don Pedro de Alba, the interpreter, the same who translated your two letters above-mentioned. These persons, and other military men, whose presence was important to the tranquillity of the place, have thus been seized in an unjustifiable manner.

These facts being established, I ask, who but your excellency will have to answer for the bloodshed which may ensue in consequence of the determination announced in your letter of taking possession of Pensacola and Barancas? I protest before God and men that my conduct is blameless, and that my sincere wishes ever have been to maintain peace and amity between our respective nations. The sincerity of my intentions is founded upon the President's Message of 25th March last to Congress; the tenor of which holds out assurances that no aggressions were to be expected from the troops of the United States. Unfortunately, however, their operations have violated the tranquillity and peace of the province.

I expect, from the generosity of your excellency, that you will leave the officers and troops of the garrison of Pensacola at perfect liberty; that your army, after receiving the necessary supplies, will evacuate the province as speedily as possible; and that you will not carry on a partial warfare against West Florida at a time when our two nations are in a state of profound peace.

Lieutenant Colonel Don Leni Piernas, provisional commandant of Pensacola, is duly authorized to represent me, and to receive any commu-

nications your excellency may be pleased to make. To all such the most prompt answers shall be given, through the ministry of the bearer, the interpreter, Don Pedro de Alba. In conclusion, if, contrary to my hopes, your excellency should persist in your intention to take possession of this fortress, I am resolved to repel force by force, and defend it to the last extremity. He who resists aggression can never be deemed the aggressor.

God preserve your excellency many years.

JOSE MAZOT.

His Ex'cy Major Gen. A. JACKSON.

No. 36.

*General Jackson to Governor Mazot.*

HEADQ'RS, DIVISION OF THE SOUTH,

*Pensacola, May 25, 1818.*

SIR: The accusations against you are founded on the most unquestionable evidence. I have the certificate of individuals, who, on the 23d instant, at or near the Little Bayou, counted seventeen Indians in company of several Spanish officers. I have only to repeat that the Barancas must be occupied by an American garrison, and again to tender you the terms offered, if amicably surrendered; resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well advised of your strength, and cannot but remark on the inconsistency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, according to your own acknowledgment, to be controlled by you. If the force which you are now disposed wantonly to sacrifice had been wielded against the Seminoles, the American troops had never entered the Floridas. I applaud your feeling as a soldier, in wishing to defend your post; but where resistance is ineffectual, and the opposing force overwhelming, the sacrifice of a few brave men is an act of wantonness, for which the commanding officer must be accountable to his God.

ANDREW JACKSON,

*Major Gen. com'g Div. of the South.*

Don JOSE MAZOT,

*Commanding Barancas.*

*Certificates and Declarations.*

No. 37 a.

We certify that, being in Fort St. Mark's, Barancas, on the 28th of May, 1818, in the afternoon, soon after the American troops took possession of the works, and as the Spanish troops were marching out, we saw an Indian carried out by some of the Spanish soldiers; he was laid on the beach, to be put on board a boat. He was wounded in his leg or thigh, and had every appearance of having been engaged in the defence of the fort.

WM. RUSSELL,  
JAS. L. BELL.

*Relations with Spain.*

## No. 37 b.

I certify that, on the 23d of May, being in the bayou which enters Pensacola bay, one and a half mile from the town, I saw at the ferry, on the road to Barancas, a number of Indians (I think about seventeen) in company with four Spanish officers. The officers were carried over, and the boat returned to ferry over the Indians. I saw one boat-load landed on the side next the Barancas. The Indians concealed themselves in the bushes on discovering us.

RICHARD BRICKHAM.

Witness: T. CROSS,  
*Lieut. 1st Infantry.*

I certify that I was in the boat with Brickham, at the place and time mentioned in the above certificate; that I saw several Indians in company with four Spanish officers. The officers were ferried over with one Indian. I did not see the Indians ferried over; they concealed themselves on discovering us.

JOHN BONNER, his  $\times$  mark.

Witness: T. CROSS,  
*Lieut. 1st Infantry.*

Witness to both certificates:  
WM. S. FULTON,  
*Private Sec'y to Com'g Gen.*

## No. 37 c.

FORT MONTGOMERY, June 2, 1818.

I certify that, between the 5th and 7th of May, 1818, while at Fort Gadsden, on the Appalachicola river, I was informed by a Mr. Larua and Benneto Gassea, both citizens of, and at that time direct from Pensacola, that at the time of their departure thence there were about five hundred Indians in and about Pensacola; and I further certify that, on my arrival at Pensacola, on the 23d of May, I was informed by Mr. Skeate and other citizens of that place, that on the 22d, which was the day before my arrival, Holmes (a noted Red Stick) with his party had left Pensacola to proceed to the Choctawhatchy for safety, having been for several days previous in town. All which I certify on honor.

WM. HAMBLY.

Witness: WM. S. FULTON,  
*Private Sec'y to Com'g Gen.*

## No. 37 d.

PROVINCE OF WEST FLORIDA,  
*Town of Pensacola, Sept. 15, 1818.*

In pursuance with an order to me directed by Colonel William King, civil and military governor of said province, (a copy whereof is hereto annexed,) I caused to appear before me, at the quarters of Captain Hugh Young, of the army of the United States, in this town, the following persons, viz: Manuel Gonzales, Dr. Brosnham, William Cooper, J. Dauphin, — Skeate, Felippa Prieto, Joachim Barreлас, P. Alba, junior, Jose Bonefi, (Marian,) and Charles Le Jeune, to answer, on oath, such interrogatories, not tending

to criminate themselves, as might be propounded to them by Captain Young, relating to the intercourse which took place between the late Spanish authorities of this province and the hostile Indians during the recent war with the United States.

JOACHIM BARRELAS, being duly sworn, declares that he has frequently seen parties of Indians in the town of Pensacola since the month of November, 1817; says that parties of Indians have been provisioned by the late authorities at this place on several occasions: has frequently heard and believed that the Indians were in the habit of bringing into this place horses, cattle, &c., for the purpose of selling them and other plunder. Says he was at Barancas at the time that General Jackson came to Pensacola, in May last; deponent acted there as commissary, and knows that several Indians went from town down to Barancas with the Spanish forces, and took refuge in the fort; that, at the same time, several small parties were encamped about the Barancas; that, upon the arrival of General Jackson before the Barancas, Tapaulca and family were also in the fort. Deponent has seen said chief several times in Pensacola, and believes him to be either a Creek or Seminole Indian; that, while deponent was at Barancas, and subsequently to the said month of November, 1817, he saw an Indian, named Luna, an express from St. Marks, cross over from Santa Rosa island to Barancas, with despatches for the Governor here; says that, since the said month of November, 1817, Governor Mazot, being himself at Barancas, did order this deponent to give rations to several parties of Indians then there, of at least from thirty to forty strong—men, women, and children.

JOACHIM BARRELAS.

GEORGE SKEATE, being duly sworn, declares that he has constantly resided in the town of Pensacola since November, 1817; since which he has repeatedly seen, at different times, in said town, from thirty to forty Indians; has not seen any ammunition given to the Indians within the period alluded to; has heard and believes that horses, cattle, &c., were brought into this place by the Indians and sold, which deponent however did not see. Deponent believes that the late Governor (Mazot) was well acquainted with the several murders that were committed on the neighboring American frontier; knows of no supplies furnished by order of the Spanish Government since about the month of March, 1817, when a supply of knives, a few blankets, and some copper kettles, were furnished and delivered to a party of Indians, for the purpose, as was then said, of acting against the insurgents who were expected; that the said party of Indians shortly disappeared, and nothing more was heard of them. Deponent saw, on the day that Major Youngs attacked a party of Indians in the neighborhood of this town, a number of Indians who he believes were sent (or went themselves) across the bay in a boat belonging to Don Antonio Molina, captain of the port.

GEORGE SKEATE.

*Relations with Spain.*

CHARLES LE JEUNE, being duly sworn, declares that he has resided in Pensacola since November, 1817; since which he has frequently seen in this town or its vicinity parties of upwards of a hundred Indians encamped; that these parties were armed either with rifles or with the arms that were furnished them by the English; that although he cannot state that these parties had received ammunition from the Spanish Government here, he nevertheless can and does state that the said parties were provisioned from the King's stores by Prieto, King's storekeeper; that, previous to November, 1817, the Government was regularly in the habit of giving out ammunition to the Indians from a store which was expressly for that purpose here; that, on the day that Major Youngs attacked the Indians near this town, there was a considerable number encamped near the water side in town, who, upon hearing the report of fire-arms, crossed the bay in their own boats, and in other larger boats belonging to others.

CARLOS LE JEUNE.

WILLIAM COOPER, being duly sworn, declares that he has resided in Pensacola since November, 1817; during which period he has frequently seen in town and its vicinity several parties of Indians; saw one in particular with some sheet lead, and has heard that the Indians had introduced some clothes in town that looked like American manufacture; states also that Tapaulca was a *Red Stick* chief, and had been frequently about Pensacola for several years past.

WILLIAM COOPER.

PENSACOLA, September 19, 1818.

I certify that the foregoing depositions were sworn to and subscribed before me, on this day.

M. McKENNEY, SEN., J. P.

No. 37 c.

JOHN DUFFY, being duly sworn, declares as follows:

Question. Have you resided in and about Pensacola since November, 1817?

Answer. I have.

Q. Have you seen in said town or its vicinity, within or since that period, any Indians?

A. I have.

Q. How many did you see at any particular time?

A. About the latter end of that Spring I saw in town from fifty to sixty Indians; but few of these were armed, because they were prohibited coming into town armed. I suppose their arms were left in their camps in the neighborhood.

Q. How did these Indians subsist themselves, and how did they procure ammunition?

A. Probably from the Government here; of this, however, I am not certain.

Q. Did you see any horses, cattle, or other plunder, brought into this place by the Indians?

A. No.

Q. How many Indians were in Pensacola and its neighborhood at the time that Major Youngs attacked a party near this town?

A. Of all descriptions, viz: men, women, and

children, there must have been a considerable number; not less, probably, than one hundred and fifty or sixty.

Q. When Major Youngs attacked a party near town, how did those in town find means to escape across the bay?

A. I have understood and believe that they were sent across the bay by order of the Governor.

SANTIAGO DAUPHIN.

A true copy:

R. K. CALL, A. D. C.

JOSEPH BONEFI, being duly sworn, declares as follows, viz:

Question. Have you lived in Pensacola since November, 1817?

Answer. I have.

Q. Have you not, between that period and the approach of the American forces under Major General Jackson, repeatedly seen divers parties of hostile Indians in this town or its neighborhood?

A. I have. Indeed, between the said month of November and the time that the hostile party surrendered to Major Youngs, there were more or less in town; sometimes in numbers considerable, sometimes fewer.

Q. How or by whom were those Indians subsisted; and from whom or by what means did they procure ammunition and other warlike stores or weapons?

A. I have understood and do believe that they were fed by the Government here; as to ammunition, &c., I cannot state how they procured supplies, except it might have been from the stores about town.

Q. Have you seen or been informed of any horses, cattle, or other plunder, having been brought in here by the Indians within the time above alluded to?

A. No.

JOSEPH BONEFI.

PENSACOLA.

Both depositions sworn to and subscribed before me, the 19th September, 1818.

M. McKENNEY, SEN., J. P.

A true copy:

R. K. CALL, A. D. C.

No. 37 f.

PIERRE SENAC, being solemnly sworn, declares as follows: That he has resided in the town of Pensacola constantly since the month of November last past; that, since that time, and until the arrival of Major Youngs near this town, there were always considerable numbers of hostile Indians in or near the town; that, on many occasions within that period, he has seen from one hundred and fifty to two hundred Indians here; that their forces were regularly provisioned from the King's store here; that he has seen large quantities of sheet lead in the possession of the Indians, and considers it as greatly resembling the lead aprons of cannon; that the Government must have furnished the lead in question, as there were no other means here of getting such lead, and

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that the said lead was run off into balls, which this deponent saw; that, on the day Maj. Youngs attacked a party of Indians near this town, there were then in town a considerable number more, who were sent across the bay in boats provided for that purpose by the Spanish Governor.

Deponent further states that, about the first of March last past, three considerable parties of hostile Indians—one party under the command of Leon Lesassier, another under the command of Arnaud Gilmer, (both lieutenants in His Catholic Majesty's service,) and the third commanded by an Indian chief—retired out of this town, and went down towards the neighborhood of Barancas, where provisions and ammunition were regularly supplied them by the Spanish Government; that the said Indians were armed with guns which they had received from the English during the late war, and that they remained encamped within from one to three leagues of Barancas for the space of nearly a month; that these Indians, besides being armed with guns, had also tomahawks, which deponent understood and believes were furnished by John Innerarity; and that, when the Government caused the said parties to be thus assembled and equipped, they were collected at Barancas for the purpose, as deponent conceives, of eluding the vigilance of such individuals in Pensacola as would not concur in such measures.

Deponent further states that, since the said month of November last past, he has seen brought in here by the Indians a quantity of cottonade and women's clothing, brought or said to have been brought from the American frontier; that these things were publicly sold in this town, notwithstanding it was notoriously known here that those articles and property had just been taken from those whom the Indians had killed on the American frontier.

P. SENAC.

Attest:

J. ROBINSON,  
*Interpreter, Pensacola.*

Sworn to and subscribed before me, this 19th day of September, 1818.

M. McKENNEY, SEN., J. P.

No. 37 g.

JOSE E. CARO, a citizen of Pensacola, being sworn, states that, early in the present year, (1818,) a party of hostile Indians were in Pensacola, their numbers not known, but probably fifty; that, on hearing of the approach of the American army under General Jackson, the Governor of Pensacola furnished those Indians with provision and ammunition, and sent them in public boats across the bay; the deponent saw the rations issued and the party embarked. The deponent further states that, subsequent to this, he saw three parties of hostile Indians furnished with provisions, the ostensible object of which was to enable those Indians to march to the interior and give themselves up, but it was very generally believed that those Indians had no such intention. The deponent saw those In-

dians set out, and states that they had their arms.

JOSE ESTEVAN CARO.

Sworn and subscribed before me, at Pensacola, 10th September, 1818.

H. YOUNG, *Capt. Top. Eng.*

No. 37 h.

CHARLES BARON, a resident of Pensacola, being sworn, states that, about the latter end of April or beginning of May, 1818, a party of Indians, amounting to near one hundred, were in Pensacola with a quantity of plunder which, it was generally believed, was taken at the time Stoke's family were murdered on the Escambia. The Indians sold this plunder openly to the inhabitants of Pensacola, and the deponent could not learn that the Spanish authorities at Pensacola made any inquiries respecting it. The deponent further states that, at several times in the present year, (1818,) he saw parties of Indians furnished with provisions and ammunition from the King's stores; but he does not recollect the dates of these transactions. The deponent further states that he has frequently heard Spanish officers at Pensacola justify the conduct of the Indians towards the United States, manifesting in their conversation a decided hostility towards the Americans.

CARLOS BARON.

Sworn before me, at Pensacola, September 13, 1818.

H. YOUNG, *Capt. Top. Eng.*

No. 38.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort Gadsden, March 25, 1818.*

SIR: At seven o'clock P. M., on the 9th instant, I reached Fort Scott with the brigade of Georgia militia, nine hundred bayonets strong, and some of the friendly Creeks who had joined me on my march a few days before, where, finding but one quart of corn per man and a few poor cattle, which, added to the live pork I brought along, would give us three days' rations of meat, determined me at once to use this small supply to the best advantage. Accordingly, having been advised by Colonel Gibson, Quartermaster General, that he would sail from New Orleans on the 12th February, with the supplies, and being also advised that two sloops, with provisions, were in the bay, and an officer had been despatched from Fort Scott, in a large keel-boat, to bring up a part of their lading, and deeming that the preservation of those supplies would be to preserve the army, and enable me to prosecute the campaign, I assumed the command on the morning of the 10th, ordered the live stock slaughtered and issued to the troops, with one quart of corn to each man, and the line of march to be taken up at twelve, meridian. Having to cross the Flint river, and it being very high, combined with some neglect in returning the boats during a very dark night, I was unable to

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move from the opposite bank until nine o'clock on the morning of the 11th, when I took up my line of march down the east bank of the river for this place, touching the river as often as practicable, looking for the provision boat which was ascending, and which I was fortunate enough to meet on the 13th instant, when I ordered an extra ration to the troops, they not having received a full one of meal or flour since their arrival at Fort Early. On that day my patrols captured three prisoners, and found some hidden corn. On the morning of the 14th I ordered the boat down the river to this place, whilst I descended by land, and reached here, without interruption, on the morning of the 16th. The eligibility of this spot as a depot determined me, and I immediately directed my aid-de-camp, Lieutenant Gadsden, of the engineer corps, to furnish a plan for and superintend the erection of a fortification. His talents and indefatigable zeal displayed in the execution of this order induced me to name it Fort Gadsden, to which he is justly entitled.

On my arrival here, I immediately despatched the boat to the bay for the balance of provisions known to be there, and to ascertain whether the flotilla in charge of Colonel Gibson had reached there; and which returned on the 19th, with the unpleasing intelligence that nothing had been heard of the flotilla from New Orleans since it was seen passing Fort Bowyer. I immediately put the troops on half rations, and pushed the completion of the fort for the protection of the provisions; in the event of their arrival, intending to march forthwith to the heart of the enemy, and endeavor to subsist upon him. In the meantime, I despatched Major Fanning, of the corps of artillery, to take another look into the bay; whose return, on the morning of the 23d, brought the information that Colonel Gibson, with one gunboat and three transports, and others in sight, were in the bay. On the same night I received other information that no more had arrived. I am, therefore, apprehensive that some of the smaller vessels have been lost, as one gunboat went to pieces, and another, when last spoken, had one foot water in her hold. All of the vessels had been spoken after the gale which dispersed them. A north and northwest wind has prevailed for six days, but has fortunately changed this morning. I am now awaiting a boat from the bay, (which is expected to-day,) to complete eight days' rations for my troops, upon which I mean to march.

From information received from Pensacola and New Orleans, I have no doubt but that St. Mark's is in possession of the Indians. The Governor of Pensacola informed Captain Call, of the first infantry, (now here,) that the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Mark's of the commandant, and that he presumed possession would be given from inability to defend it. The Spanish Government is bound by treaty to keep the Indians at peace with us; they have acknowledged their incompetency to do this, and are consequently bound by the law of nature and

nations to yield us all facilities to reduce them. Under this consideration, should I be able, I will take possession of the garrison as a depot for my supplies, should it be found in the hands of the Spanish garrison, they having supplied the Indians; but if in the hands of our enemy, I will possess it for the benefit of the United States, as a necessary position for me to hold, to give peace and security to this frontier, and put a final end to Indian warfare in the South.

Finding it very difficult to supply Fort Crawford, on the Conecuh river, by land, I have ordered the supplies for that garrison by water, and written to the Governor of Pensacola that if he interrupts them during the present Indian war, I shall view it as aiding our enemy, and treat it as an act of hostility; and stated to him the propriety, under existing circumstances, of his affording all facilities to put down their own as well as our enemies, and that our Governments, whilst negotiating, can take this subject under consideration; but, in the mean time, our provisions must pass to Fort Crawford without interruption.

In mine of the 14th February, from Hartford, I informed you of the measures adopted to procure supplies, and in my last of the 26th, from Fort Early, I informed you of their situation. To those communications I beg leave to refer you. I have only to add, that I left Fort Early for Fort Scott, and subsisted my troops on ground peas, corn, and some pork, that I could occasionally procure from the Indians, with some pork that I had on foot, the whole subsistence for man and horse not costing five hundred dollars. Of all the supplies purchased for the relief of Fort Scott, and the support of the Georgia militia, not one pound was received until I passed Fort Scott. I said in my last that blame rested somewhere; the cause of those failures will in due time be a subject of investigation, and Colonel Brearly has been arrested on the application of Gen. Gaines.

By some strange fatality, unaccountable to me, the Tennessee volunteers have not yet joined me. They promptly left their homes, and through the inclement weather reached Fort Mitchell, where I had ordered them supplies, and where Colonel Hayne, who led them, met my instructions to pass by Fort Gaines, where he would get a supply of corn that would enable him to reach Fort Scott: but the idea of starvation had stalked abroad; a panic appears to have spread itself everywhere, and he was told that they were starving at Forts Gaines and Scott, and was induced to pass into Georgia for supplies. His men and officers, as reported to me, were willing to risk the worst of consequences on what they had to join me; however, they have been marched from their supplies, to a country stripped of them, when every consideration should have induced his advisers to have urged him on to secure the supplies in the bay, and preserved themselves and Fort Scott from starvation. I have a hope that they will join me before I reach St. Mark's, or the Mickasuky towns; this would be desirable, as the troops ordered from New Orleans to protect the supplies have not reached the bay, and leaving

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garrisons at Forts Scott and Gadsden weakens my force much, the whole effective strength of the regulars being but three hundred and sixty privates.

In mine of the 26th ultimo, from Fort Early, I informed you that despatches received by General Gaines on the 19th ultimo from the commanding officer at Fort Scott induced him to set out that night for Fort Scott, to prevent its abandonment, &c. In his passage down the Flint river he was shipwrecked, by which he lost his assistant adjutant general, Major C. Wright, and two soldiers, (drowned.) The General reached me six days after, nearly exhausted with hunger and cold, having lost his baggage and clothing, and being compelled to wander in the woods four and a half days without anything to subsist on, or any clothing except a pair of pantaloons. I am happy to have it in my power to say that he is now with me at the head of his brigade in good health.

The great scarcity of subaltern officers in the 4th and 7th regiments of infantry has induced me to appoint several young men (present) as second lieutenants in those regiments, who, from personal knowledge and good recommendations, I have no doubt will prove themselves worthy; and trust the measure will meet the approbation of the President. A list of their names, and the regiments to which they are attached, will be furnished the adjutant and inspector general by my adjutant general. I have the honor to be, &c.

A. JACKSON, *Maj. Gen.*

HON. JOHN C. CALHOUN.

P. S.—Since writing the above, I have the pleasure to inform you that the boat from the bay has arrived with provisions, also Colonel Gibson and Captain McKeever of the navy. I shall move to-morrow, having made the necessary arrangements with Captain McKeever for his co-operation in transporting my supplies around to the bay of St. Mark, from which place I shall do myself the honor to communicate to you. Should our enemy attempt to escape with his supplies and booty to the small islands, and from thence to carry on a predatory warfare, the assistance of the navy will prevent his escape. General William McIntosh, commanding the friendly Creeks who had been ordered to reconnoitre the right bank of the Appalachicola, reported to me on the 19th instant that he had captured, without the fire of a gun, one hundred and eighty women and children, and fifty-three warriors of the Red Ground chief's party, with their cattle and supplies; the chief and thirty warriors making their escape on horseback; ten of the warriors, attempting their escape after they had surrendered, were killed by the General.

A. J.

No. 39.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Montgomery, June 2, 1818.

SIR: The Seminole war having terminated, I

deem it politic and advisable to send to Washington John Blunt and his Indian comrades, who have acted as pilots to me during the late campaign. John Blunt is a Tuckabatchee Indian, has long been friendly to the United States, and, in consequence of his opposition to the Red Stick party during the Creek war, has drawn down upon himself their vengeance during the late contest. His settlement being in an exposed situation on the Appalachicola river, he was early attacked by the Seminoles, his property destroyed, and his family rifled from him. Alone he escaped, and fled to Fort Scott, where, joining the American standard, he has proven himself a most zealous friend and faithful pilot to this period. In justice to him, I am bound to state that, to his correct knowledge of the country, and zealous attachment to the cause in which we were engaged, am I measurably indebted for the success of the present campaign.

Mr. Hamby accompanies John Blunt. Mr. Hamby is a Spanish subject by birth, and has long been a resident as a trader on the Appalachicola river. In consequence of his attachment to the American cause, and his active exertions to check the hostile feelings of those Indians disposed to war against the United States, he drew down upon himself and family their vengeance. He was forcibly taken from his home at an early period of the war; his property, goods, and negroes taken from him, and he violently transported from Mickasuky, Suwanee, and St. Mark's, until finally relieved by Captain McKeever, of the American navy. Since which period, he has been attached to my army as Indian interpreter. You will find him an honest and faithful friend to our Government, and valuable for the information which he can afford of Spanish policy and intrigue. He is well acquainted with all the transactions of foreign agents in this country, of their practices, &c., and how far encouraged by the Spanish authorities, &c.

With respect, your obedient servant,

ANDREW JACKSON,  
*Maj. Gen. commanding.*

The Hon. J. C. CALHOUN,  
*Secretary of War.*

No. 40.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 8, 1818.

SIR: I wrote you from Fort Gadsden, communicating the embarrassments under which I had labored previous to my arrival at that post, and my determination, being then in a situation to commence active operations, to penetrate immediately into the centre of the Seminole towns. My army marched on the 26th ultimo, and on the 1st of April was reinforced by the friendly Creek warriors under General McIntosh, and a detachment of Tennessee volunteers, commanded by Colonel Elliott. On the same day, a mile and a half in advance of the Mickasukian villages, a small party of hostile Indians were discovered

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judiciously located on a point of land projecting into an extensive marshy pond—the position designated, as since understood, for the concentrating of the negro and Indian forces to give us battle. They maintained for a short period a spirited attack from my advanced spy companies, but fled and dispersed in every direction upon coming in contact with my flank columns, and discovering a movement to encircle them. The pursuit was continued through the Mickasukian towns, until night compelled me to encamp my army. The next day detachments were sent out in every direction to reconnoitre the country, secure all supplies found, and reduce to ashes the villages. This duty was executed to my satisfaction; nearly three hundred houses were consumed, and the greatest abundance of corn, cattle, &c. brought in. Every indication of a hostile spirit was found in the habitations of the chiefs; in the council-houses of Kenhagee's town, the king of the Mickasukians, more than fifty fresh scalps were found; and in the centre of the public square, the old Red Stick's standard, a *red pole* was erected, crowned with scalps, recognised by the hair as torn from the heads of the unfortunate companions of Scott.

As I had reason to believe that a portion of the hostile Indians had fled to St. Mark's, I directed my march towards that fortress. As advised, I found that the Indians and negroes combined had demanded the surrender of that work. The Spanish garrison was too weak to defend it; and there were circumstances reported, producing a strong conviction in my mind that, if not instigated by the Spanish authorities, the Indians had received the means of carrying on the war from that quarter; foreign agents, who have been long practising their intrigues and villanies in this country, had free access into the camp; St. Mark's was necessary as a depot to insure success to my operations. These considerations determined me to occupy it with an American force. An inventory of the Spanish property, munitions of war, &c., has been taken and receipted for, and the commandant and garrison furnished with transportation to Pensacola. My correspondence with the Spanish commandant, the evidences under which I acted, and a detailed account of my operations, will be furnished you as early as practicable. Success depends upon the rapidity of my movements; and to-morrow I shall march for the Suwanee river, the destroying the establishments on which will, in my opinion, put a final close to this savage war. Captain McKeever, of the navy, cruising at my request on this coast, has been fortunate enough in securing Francis, or Hillis Hadjo, the great prophet, and Homathlemico, an old Red Stick. They visited his vessels, under an impression that they were English, from whom, as they stated, supplies of munitions of war, &c., under late promises, were expected. Arbuthnot, a Scotchman, and suspected as one of the instigators of this savage war, was found in St. Mark's; he is in confinement until evidences of guilt can be collected. With respect, &c.

A. JACKSON, *Maj. Gen.*

No. 41.

*General Jackson to F. C. Luengo.*

HEAD'QRS, DIVISION OF THE SOUTH,  
*Before St. Mark's, April 6, 1818.*

SIR: To chastise a savage foe, who, combined with a lawless band of negro brigands, have, for some time past, been carrying on a cruel and unprovoked war against the citizens of the United States, has compelled the President to direct me to march my army into Florida. I have penetrated to the Mickasuky towns, and reduced them to ashes.

In these towns I found many indications of a hostile spirit. On a red pole, in the centre of the council-house of Kenhegee's town, more than fifty fresh scalps of all ages, from the infant to the aged matron, were found suspended.

In addition to this, upwards of three hundred old scalps were found in the dwellings of the different chiefs settled on the Mickasuky pond. Those barbarians who have escaped death have fled. From information communicated by the Governor of Pensacola to two of my captains, (Gordon and Call,) I was induced to believe that they had fled to St. Mark's for protection. The Governor stated that the Indians and negroes had demanded of you large supplies of munitions of war, with a threat, in the event of a refusal, of taking possession of your fortress. He further expressed an apprehension that, from your defenceless state, they were already in possession of St. Mark's. The wife of Chenubby, a noted chief, now a prisoner in my camp, informed me that the hostile Indians and negroes obtained their supply of ammunition from St. Mark's.

To prevent the recurrence of so gross a violation of neutrality, and to exclude our savage enemies from so strong a hold as St. Mark's, I deemed it expedient to garrison that fortress with American troops until the close of the present war. This measure is justifiable on the immutable principle of self-defence, and cannot but be satisfactory, under existing circumstances, to His Catholic Majesty the King of Spain. Under existing treaties between our two Governments, the King of Spain is bound to preserve in peace, with the citizens of the United States, not only his own subjects, but all Indian tribes residing within his territory. When called upon to fulfil that part of the treaty in relation to a savage tribe who have long depredated, with impunity, on the American frontier, incompetency is alleged, with an acknowledgment that the same tribe have acted in open hostility to the laws, and invaded the rights of His Catholic Majesty. As a mutual enemy, therefore, it is expected that every facility will be afforded by the agents of the King of Spain, to chastise these lawless and inhuman savages. In this light is the possession of St. Mark's by the American forces to be viewed.

I come not as the enemy, but as the friend of Spain. Spanish rights and property will be respected. The property and rights of Spanish subjects will be guaranteed them. An inventory of all public property, munitions of war, &c.,

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shall be made out, and certified by an officer appointed by each of us, and a receipt given for the same, to be accounted for to His Catholic Majesty by the United States. The subject of my possession of the garrison of St. Mark's will be referred to our respective Governments for amicable adjustment. Some armed vessels of the United States are in the bay of St. Mark, with whom I wish to communicate. You will, I trust, furnish me with a small vessel to convey a letter as well as some sick and wounded that are with me. As our mutual savage enemies are concentrating their forces near or on the Suwanee, an early and prompt answer is requested to this letter, with an English translation, as neither myself nor staff are acquainted with the Spanish.

This will be handed you by my aid-de-camp, Lieutenant James Gadsden, by whom an answer is expected. I have, &c.

ANDREW JACKSON,

*Major Gen. commanding.*

The COM'NG OFFICER at St Mark's.

No. 42.

*F. C. Luengo to General Jackson.*

ST. MARK'S OF APPALACHE,

*April 7, 1818.*

MOST EXCELLENT SIR: Being made to understand, although with the greatest difficulty, the contents of the letter with which your excellency honored me yesterday evening, delivered to me by your aid-de-camp, James Gadsden, I will declare to your excellency the satisfaction the knowledge of your expedition against Mickasuky has afforded me. That such would be the event could not be doubted, on considering the superior talents and skilful conduct of your excellency, and to these must be attributed the success, on which I tender you my most cordial congratulations.

My chief, the Governor of Pensacola, had in truth reason to mention to your captains (Gordon and Call) what your excellency states to me, and to entertain fears for the fate of this fort, menaced by Indians and negroes, for some months past, and particularly since they have been disappointed in their expectations of obtaining powder and ball, which they have so repeatedly solicited, and to which they thought themselves entitled, from the practice which existed of supplying them annually therewith. This proves how entirely unfounded is the assertion of the wife of the chief Chenubby, that the Indians have been supplied with munitions in this fort since I was advised and determined to maintain the most perfect neutrality. No one can better remove from your excellency's mind any unfavorable impressions you may have formed on this subject than the bearer, William Hambly, as he has at various times interpreted to me the solicitations of the several Indian chiefs in my neighborhood; and he can also inform you of the advice I always gave them to avoid the destruction which has overtaken them, and which I foresaw from the beginning.

This being realized, and there being now no motive to fear any insult to the fort from these barbarians and the negroes, I beg permission of your excellency to call your attention to the difficulty I should involve myself in with my Government if I were presently to assent to what your excellency proposes to me—to garrison this fort with the troops of the United States without first receiving its orders. Such I will solicit immediately an opportunity offers, and I do not for a moment doubt that they will be given to me, so zealous is my Government to comply with the stipulations between her and the United States. In the interim, I hope your excellency will desist from your intention, and be firmly persuaded of the good faith and harmony which will reign between this garrison and whatever troops you may think fit to leave in this vicinity, who may assist me in the defence of this fort on any unforeseen event.

The sick your Excellency sent in are lodged in the royal hospital, and I have afforded them every aid which circumstances admit. I hope your Excellency will give me other opportunities of evincing the desire I have to satisfy you. I trust your Excellency will pardon my not answering you as soon as requested, for reasons which have been given you by your aid-de-camp. I do not accompany this with an English translation, as your Excellency desires, because there is no one in the fort capable thereof; but the before-named Wm. Hambly proposes to translate it to your Excellency in the best manner he can.

May our Lord preserve your Excellency many years, such is my prayer. Most excellent sir, I kiss your Excellency's hands. Your most devoted and obedient servant.

FR. CASO Y LUENGO.

The Most Excellent A. JACKSON,

*General-in-chief, &c.*

No. 43 a.

*General Jackson to F. C. Luengo.*

HEADQUARTERS, DIVISION OF THE SOUTH,  
*Camp near St. Mark's, April 7, 1818.*

SIR: I refer you to my communication of yesterday for the motives which have compelled me to occupy the fort of St. Mark. I again repeat that I have entered the territory of Spain as a friend, to chastise a mutual enemy of both nations, and whom His Catholic Majesty was bound, under the most sacred of treaties, to have punished himself. Peculiar circumstances, however, have prevented, and it was therefore expected that every facility would have been given to the American arms to have insured success to their operations. The occupation of St. Mark's is essential to the accomplishment of my campaign, and is peculiarly so at this period, when evidence is derived from every source of the designs of the negroes and Indians against that fortress. They are now concentrating with the intention of taking possession of St. Mark's the moment my army moves from its vicinity; the dislodging them from which will cost me more



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American blood than I am disposed should be shed. Success to my operations requires despatch; you will excuse me, therefore, in refusing your request that a suspension should be granted until a permit is obtained from your Government, and in insisting that St. Mark's should be immediately occupied by American troops.

Major Fanning, my inspector general, and Lieutenant Simmons, of the ordnance department, are appointed to act with one or two officers nominated on your part, to take an inventory of and inspect all public property in the fort of St. Mark, for which receipts will be given in the name of the American Government.

Any disposition which you would wish made with the private property of yourself, officers, and soldiers, or any other arrangements gratifying to yourself, will be settled by my aids de-camp, Lieutenants Gadsden and Glassell.

ANDREW JACKSON,  
*Major Gen. commanding.*

DON FRANCISCO CASO Y LUENGO,  
*Commanding Fort St. Mark's.*

No. 43 b.

*General Jackson to F. C. Luengo.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Camp near St. Mark's, April 7, 1818.*

SIR: I have received your protest against my proceedings. The occupancy of Fort St. Mark's by my troops previous to your assenting to the measure became necessary from the difficulties thrown in the way of an amicable adjustment, notwithstanding my assurances that every arrangement should be made to your satisfaction, and expressing a wish that my movements against our common enemy should not be retarded by a tedious negotiation. I again repeat what has been reiterated to you through my aid-de-camp, Lieutenant Gadsden, that your personal rights and private property shall be respected, that your situation shall be made as comfortable as practicable while compelled to remain in Fort St. Mark's, and that transports shall be furnished as soon as they can be obtained to convey yourself, family, and command to Pensacola.

I daily expect some vessels from the Bay of Appalachicola; as soon as they arrive, the most suitable shall be selected for said purpose.

ANDREW JACKSON,  
*Major Gen. commanding.*

DON FRANCISCO CASO Y LUENGO,  
*Governor of St. Mark's.*

No. 44.

*F. C. Luengo to General Jackson.*

APPALACHICOLA, April 7, 1818.

MOST EXCELLENT SIR: I should insist on what I stated to your excellency in my letter of this morning, as to the necessity of awaiting orders from the Governor of Pensacola for the delivery of the fort under my command, were I not, in addition to what your excellency says in your answer, threatened by your aid-de-camp and the

officers appointed to negotiate on the subject, and had not so large a body of troops entered without awaiting my permission, and taken possession of all the stores and posts, lowering the Spanish flag, and hoisting the American. So manifest a violation of the territory of His Catholic Majesty obliges me to complain of it, and to protest against it; and I accordingly do protest it, and beg of your excellency to provide, as speedily as possible, the vessels necessary to transport me to Pensacola, together with the troops and those persons who are in the royal employ; and also to give orders that, in the interim, the private property and effects of every Spanish individual here be respected. With respect to the public property of His Catholic Majesty, I have nominated the subaltern of the detachment and commissary of the fort to make, with three officers whom you name to me, an inventory thereof.

I repeat to your excellency my respects, and pray to God to preserve your life many years.

Most excellent sir, I kiss your excellency's hands. Your most obedient and devoted servant,

F. CASO Y LUENGO.

The Most Excellent A. JACKSON.

45.

*W. Hamblly's certificates, July 24, 1818.*

I do hereby certify that, during my long residence on the river Appalachicola, my knowledge of the Indian language, and my intimate acquaintance with the different chiefs, gave me many opportunities of knowing through them the advice given them, from time to time, by the Governors of West Florida hostile to the United States. In the year 1812 or 1813, I saw a letter from the Governor of Pensacola to the late chief of the Seminoles, Thomas Perryman, advising him to collect his forces and join his Upper Town brethren, who he said had come to a determination to rise in arms and shake off the American yoke; he would supply their arms and ammunition; and he said he was sure that, in less than a month, their fathers and protectors, the Spaniards, would have a sufficient army in the field to aid and protect them. Not long after I saw this letter, a large party of Indians went down to Pensacola, where they received a large supply of ammunition and some arms. It was but shortly after this when they attacked and destroyed the garrison of Fort Mimms; this was the commencement of the first Indian war. On the 13th of December last, when on my plantation on the Appalachicola, I was made a prisoner by a party of Seminole Indians, and was taken up to the Ocheehee bluffs in company with Mr. Doyle, who was made a prisoner with me; they kept us there three days, during which time they were busily engaged with some transports which were then ascending the river to Fort Scott; from thence they took us to the Mickasuky, where the Indians informed me that they had been told by the commandant of St. Mark's that war was declared between Spain and the United States. From this place we were carried to the Suwanee, where Kenhagee,

*Relations with Spain.*

principal chief of the Seminoles, told me that we had been taken and robbed by order of Arbuthnot, and brought there to be tried by him; shortly after we reached this, Arbuthnot arrived from Providence, when we were tried and sentenced by said Arbuthnot to be tortured; this sentence was not put in execution by the friendly interference of Mr. Cook, clerk to Arbuthnot, and the negro chief Nero; we were then conducted back to the Mickasuky; then Kenhagee went down to the Fort St. Mark's to consult the commandant if he would take us as prisoners to keep at his order; they held a council among the neighboring chiefs, and on the fifth day he returned, and ordered us to be conducted down next morning; we arrived at St. Mark's on the 12th February, at night; the Spanish officers received us kindly, but the commandant did not forget to remind us that we were still prisoners, and marked out that night the limits of our prison, which he rigidly kept during the time of our stay.

Next morning, the first thing that presented itself to my view was my saddle-horse which had been taken from me by the Indians; he was in the possession of the commissary. I mentioned it to the commandant, but he said that he bought him of an Indian, and he could do nothing in it. A few days after, in the course of conversation, I mentioned it to the Spanish doctor; he assured me that two-thirds of the property taken from us by the Indians had been bought by them and others in the fort. The plundered property from Georgia was every day briskly bought by the commandant and others. I know one instance of an Indian making an engagement with the commandant for cattle that he was going then to plunder, and in fourteen or fifteen days brought them in and sold them. On our first arrival at St. Mark's, we had, by help of a friendly Indian, conveyed intelligence to our friends in Pensacola of our situation, and they sent us on a small vessel to effect our escape; on her arrival, the commandant said to us that he had no objection to our getting out of the power of the Indians, but that he should first demand a written obligation that we should never return to that country, nor hold any communication, direct or indirect, with the United States Government, or any of her officers. This being settled, we left St. Mark's on the night of the 28th of March, and joined Captain McKeever, in his gunboats, in the bay of Appalachicola; on the 30th returned with him to St. Mark's, where we found General Jackson, on the 6th of April. Given under my hand the 24th July.

WILLIAM HAMBLY.

No. 46 a.

*W. Hamby and E. Doyle to General Jackson.*

FORT GADSDEN, May 2, 1818.

SIR: We beg leave to submit to you the following facts:

On the 13th of December, 1817, we were violently torn from our settlement on the Appalachicola river, by a number of Indians, headed by

Chenubby, a chief of the Fowl Town tribe, carried to Mickasuky, and delivered to Kenhagee, King of the Mickasukians. Kenhagee carried us to the negro towns on the Suwanee, and thence to the Spanish fort, St. Mark's, to the commandant of which he delivered us as prisoners of war, captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Mark's we were treated as prisoners, and not permitted to wander beyond the walls of the garrison. While at that post, the ingress and egress of Indians hostile to the United States were unrestrained, and several councils were held, at one of which, Kenhagee, King of the Mickasukians, Francis, or Hillis Hadjo, Hamathlemico, the chief of Kolemies, all of the old Red Stick party, and Jack Mealy, chief of the Ochewas, were present. When it was reported that these chiefs and their warriors were entering Fort St. Mark's for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and enforce the treaties existing between the King of Spain and the United States. He replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request we were confined. The council was held in the commandant's quarters. He, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison. The Indians were in the habit of driving to Fort St. Mark's, and disposing of cattle to the commandant and other Spanish officers. While at that post, three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers. We were present at most of these contracts, and Hambly was often referred to as an interpreter between the purchaser and seller. Chenubby, a Fowl Town Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in and disposed of eleven head of cattle to the Spanish commandant of Fort St. Mark's. These same cattle were those purchased by you from the commandant as his private property.

WILLIAM HAMBLY,  
EDWARD DOYLE.

No. 46 b.

*J. Gadsden to General Jackson.*

FORT GADSDEN, May 3, 1818.

SIR: In conversation with the commandant of Fort St. Mark's, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort the hostile party of Indians had received, as reported from him; that they had free access within the walls of his fort; and that it was well known no small supplies of

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ammunition had been received from that quarter. In reply, he stated that his conduct had been governed by policy: the defenceless state of his works, and the weakness of his garrison, compelled him to conciliate the friendship of the Indians, to supply their wants, to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence; that he had been repeatedly threatened by Indians and negroes; and that his security depended upon exhibiting an external friendship. After Fort St. Mark's was occupied by the American troops, a black man and Spanish soldier was reported to me as having been arrested, clad in American uniform, recognised as part of the clothing of the 4th and 7th regiments, captured in the boat commanded by Lieutenant Scott, in ascending the Apalachicola river.

In explanation, the Spanish commandant observed that his soldiers and the Seminole Indians were in the habit of trading with each other, and that this negro, with others of his garrison, had received his permission to purchase some clothing reported to have been brought in by the Indians. Respectfully, your obedient servant,

J. GADSDEN, *Aid-de-camp.*

Maj. Gen. A. JACKSON,

No. 46 c.

*Major Twiggs to General Jackson,*

FORT GADSDEN, May 3, 1818.

SIR: After the occupancy of Fort St. Mark's with American troops, on the 7th of April last, it became my duty to take charge of some goods found in one of the public stores.

These goods were pointed out by the Spanish commandant, who, through Mr. Hambly as interpreter, separated several of the articles claimed as his own private property, and designated others as the property of Francis, or Hillis Hadjo, and Arbuthnot, a British agent or trader. An inventory of these was taken, and deposited with the American officer left in command of Fort St. Mark's. With respect, &c.

D. E. TWIGGS,

*Brev. Maj. 7th Infantry.*

I certify that I acted as interpreter in the transaction above alluded to, and that two separate parcels of goods were designated by the Spanish commandant of St. Mark's as belonging to Hillis Hadjo and Arbuthnot.

WILLIAM HAMBLY.

No. 46 d.

*J. R. Brooks and P. Cone to General Jackson.*

We, the undersigned, do hereby certify that, at the capture of Fort St. Mark's, East Florida, by Major General A. Jackson, on the 7th of April, 1818, there were some cattle purchased on account of the United States, and turned over to us, which we are of opinion had been driven from the frontiers of Georgia, (a part of them at least;) and we were strengthened in our opinion

by a number of officers and men from Georgia offering to swear to a number of them as the property of their neighbors and friends.

Given under our hands, at Fort Gadsden, this 3d May, 1818.

JACOB R. BROOKS,  
*Acting Contractor's Agent, U. S. A.*  
PETER CONE,  
*Assistant Commissary.*

No. 46 e.

*Andrew F. Fraser and Daniel F. Sullivan to General Jackson.*

We, the undersigned officers and men of the Georgia militia in the service of the United States, do hereby certify that we were at Fort St. Mark's, East Florida, at the time of its capture by Major General Andrew Jackson, on the 7th April, 1818, and saw some cattle that were purchased on account of the United States from the Spanish authorities, which we were ready to swear to as the property of our friends and neighbors in Georgia.

Given under our hands, at Fort Gadsden, this 3d May, 1818.

A. W. FRASER, *Captain.*  
D. F. SULLIVAN, *G. M. S.*

No. 47 a.

*A. Arbuthnot to Lieutenant Colonel Nicholls.*

NASSAU, N. P., August 26, 1817.

SIR: I am especially authorized to address you by the chiefs of the Creek nation whose names I affix to the present.

They desire it to be made known that they have implicitly followed our advice in living friendly with the Americans who were their neighbors, and nowise attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood; rather than make resistance, they have retired lower in the peninsula. The town of Ecan Halloway, on the Chatahoochee, where Otomisco was chief, is one instance of the encroachments of the Americans. This town is situated under the guns of Fort Gaines, and Mico was desired to submit to the Americans, or his town would be blown to atoms. Rather than do this he retired, is now living in the lower nation, and his fields, where the town stood, are ploughed up by the Americans. They complain of the English Government neglecting them, after having drawn them into a war with America; that the promise made them of sending people to reside among them has not been kept; and if they have not some person or persons to reside in the nation to watch over their interests, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly to watch over the interests of the Creek nation, but you had hardly left the nation when he turned traitor, and was led by Forbes to take the part of the Americans. His letter (No. 47 b.) to me, of which I annex a copy, will show you what

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lengths he would go if he had the means. It is Hambly and Doyle who gave the Indians all the trouble they experience. They send their emissaries among the Lower Creeks, and make them believe that the Cowetas, aided by the Americans, are coming down on them. They send to the Cowetas, and report that the lower nation is arming against them. Thus both are put in fear, and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing to the chiefs of Coweta town that they ought to live on friendly terms with their brethren of the lower nation, whose wish it was to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered by them rather favorably; and I hope the talk that was sent to the Big Warrior last June will heal the differences between them.

Hillis Hadjo arrived in my schooner at Ochlochnee Sound last June, and was well received by all the chiefs and others who came to welcome him home. In consequence of his arrival, a talk was held, the substance of which I put on paper for them, and it was sent, with a pipe of peace, to the other nations.

Hillis Hadjo wished to return to Nassau with me, but I prevailed on him to stay with the nation and keep them all at peace.

I am desired to return Hillis Hadjo's warmest acknowledgments for the very handsome manner in which you treated him in England; and he begs his prayers may be laid at the foot of His Royal Highness the Prince Regent. I left him and all his family well on the 20th of June.

Old Cappachimico desired me to send you his best respects, and requests you will send him out some people to live among them, and all the land they took from Forbes shall be theirs. At all events, they must have an agent among them, to see that the Americans adhere to the treaty, and permit them to live unmolested on their own land. This agent should be authorized by His Majesty's Government, or he will not be attended to by the Americans.

In the gazettes of Georgia, the Americans report that the Seminole Indians are continually committing murders on their borders, and making incursions into the State. These are publications tending to irritate the American Government against the poor Indians; for, during the time I was in the nation, there was only one American killed; and he, with two others, was in the act of driving off cattle belonging to Boleck, chief of Suwanee; whereas, three men and a boy were killed last June, by a party of cattle-stealers, while in their hunting-camps; the boy they scalped; and one of Boleck's headmen was killed on St. John's river in July. The backwoods Georgians, and those resident on the borders of the Indian nation are continually entering it and driving off cattle. They have in some instances made settlements, and particularly on the Choctawhatchy river, where a considerable number have descended.

By the treaty with Great Britain, the Ameri-

cans were to give up to the Indians all the lands that may have been taken during the war, and place them on the same footing they were in Choctawhatchy in 1811. It appears that they have not done so; that Fort Gaines, on the Chatahoochee river, and Camp Crawford, on the Flint river, are both on Indian territory that was not in possession of the Americans in 1811.

They are fearful that, before any aid is given them by the English Government, they will no longer be in possession of any territory. I wrote last January to his excellency the Hon. Charles Bagot, representing the encroachments of the Americans, (as I was informed, by the copy of a letter from the Right Hon. Earl Bathurst, handed me by his excellency Governor Cameron, that His Majesty's ambassadors had received orders to watch over the interests of the Indians.) Since my return here, I have received from Mr. Moodie, of Charleston, an extract of a letter from the Hon. Charles Bagot, that the expense of postage is so considerable that any further communications of the same nature must be sent him by private hands. Now, sir, as no person goes direct from this to Washington, how am I to be able to comply with this desire? Thus, he will be kept ignorant of the real situation of the poor Indians, and the encroachments made on their lands by American settlers, while we may be told by the American Government that no encroachments have been made, and that the forts they still hold are necessary to check the unruly Seminoles. Thus, the persons appointed to watch over the poor Indians have no other means of information than from the parties interested in their destruction; and, from seeing, from time to time, in the American gazettes, accounts of cruel murders, &c., committed by the Indians on the frontier settlers of the United States, he apprehends the Indians merit all the Americans do to them. But let His Majesty's Government appoint an agent with full powers, and to correspond with His Majesty's ambassador at Washington, and his eyes will then be open as to the motives that influence American individuals, as well as the Government, in vilifying the Indians.

The powers given me and the instructions were to memorialize His Majesty's Government, as well as the Governor General of Havana; but if you will be pleased to lay this letter before His Majesty's Secretary of State, it will save the necessity of the first, and I fear that a memorial to the Governor General would be of no use. Referring you to the enclosed, (No. 47 b,) I remain, most respectfully, your obedient servant,

A. ARBUTHNOT.

To Lt. Col. NICHOLLS.

No. 47 b.

*Extract of a letter from W. Hambly to A. Arbuthnot, received at Ochlochnee Sound, dated*

SPANISH BLUFF, May 10, 1817.

SIR: I am desired by the chiefs of the nation to request you will extricate yourselves from among a band of outlaws, among whom you now

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are, for the arm of justice is lifted up against them, and it will, ere long, fall heavy upon them, you, and your property. They say they would have no objection to your settling any way the west of Appalachicola river; but, where you now are, you are among a set of outlaws. They have lately committed twenty most cruel murders on women and children on the frontiers of the United States, and stolen one hundred horses; and they say it is by your desire.

W. HAMBLY.

No. 47. c.

*Signatures of the chiefs of the Creek nation to a power given to A. Arbuthnot, dated the 17th June, 1817.*

Cappachimico,	Inhimithaluchy,
Inhimathlo,	Lahoe Himathlo,
Charle Tustonaky,	Homathlemico,
Otosmico,	Talmuches Hatcho,
Ochacona Tustonaky,	Hillis Hadjo,
Imathluhe,	Opothlimico.

Interpreter, PETER SHUGERT.

Approved of by F. C. LUENGO,  
Commandant of St. Marks.

No. 48.

*Luengo to Arbuthnot.*

APPALACHICOLA, Dec. 25, 1817.

SIR AND FRIEND: Affairs having assumed a serious aspect between the savages and the Americans, and not doubting that the storm will pass this way, I entertain apprehensions for the safety of your little objects, and believe it to be your interest not to lose a moment in removing them from hence.

I shall be happy to see you, that I may have the pleasure of embracing you, and an opportunity of conversing with you on the politics of the day; which, under existing circumstances, it is improper to commit to paper. In the expectation of this pleasure, I am, with my little family,

Sir, your very affectionate servant and friend.

FR. CASO Y LUENGO.

No. 49.

*Minutes of the proceedings of a special court, organized agreeably to the following order, viz:*

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen.'s Office, Ft. St. Mark's,  
April 26, 1818.

#### GENERAL ORDER.

The following detail will compose a special court, to convene at this post, at the hour of 12 M., for the purpose of investigating the charges exhibited against A. Arbuthnot, Robert Christie Ambrister, and such others who are similarly situated, as may be brought before it:

The court will record all the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoners; and what punishment, if any, should be inflicted.

#### DETAIL.

Major General E. P. Gaines, president.

#### Members.

Colonel King, 4th infantry.  
Colonel Williamson, Tennessee volunteers.  
Lieutenant Col. Gibson, Tennessee volunteers.  
Major Muhlenberg, 4th infantry.  
Major Montgomery, 7th infantry.  
Captain Vashon, 7th infantry.  
Colonel Dyer, Tennessee volunteers.  
Lieutenant Colonel Lindsay, corps artillery.  
Lieut. Col. Elliott, Tennessee volunteers.  
Major Fanning, corps artillery.  
Major Minton, Georgia militia.  
Captain Crittenden, Kentucky volunteers.  
Lieut. J. M. Glassell, 4th infantry, recorder.

An orderly will be detailed from Gen. Gaines's brigade; and the court will sit without regard to hours.

By order of Maj. Gen. JACKSON:

ROBERT BUTLER,  
Adjutant General.

FORT ST. MARK'S, April 26, 1818.

The court convened, pursuant to the foregoing order; when, being duly sworn in the presence of the prisoner, and he being asked if he had any objections to any member thereof, and replying in the negative, the following charges and specifications were read, viz:

*Charges against A. Arbuthnot, now in custody, and who says he is a British subject.*

CHARGE 1. Exciting and stirring up the Creek Indians to war against the United States and her citizens, he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

*Specification.* That the said A. Arbuthnot, between the months of May and July, or some time in June, 1817, wrote a letter to the Little Prince, exhorting and advising him not to comply with the treaty of Fort Jackson, stating that the citizens of the United States were infringing on the Treaty of Ghent, as he believed, without the knowledge of the Chief Magistrate of the United States, and advising the Upper and Lower Creeks to unite and be friendly, stating that William Hamblly was the cause of their disputes; also advising the Little Prince to write to the Governor of New Providence, who would write to His Royal Highness the Prince Regent, through whom the United States would be called to a compliance with the Treaty of Ghent, and advising them not to give up their lands under the Treaty of Fort Jackson, for that the American citizens would be compelled to give up to them all their lands under the Treaty of Ghent.

CHARGE 2. Acting as a spy, and aiding, abetting, and comforting the enemy, supplying them with the means of war.

*Specification 1.* In writing a letter from St. Mark's fort, dated April 2, 1818, to his son John, at Suwanee, (marked A,) detailing the advance of the army under General Jackson, stating their force, probable movements, and intentions, to be communicated to Bowlegs, the chief of the Suwanee towns, for his government.

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*Specification 2.* In writing the letters marked B, without date, and C, with enclosures, Jan. 27, 1818; and D, called "a note of Indian talks;" and E, without date, applying to the British Government, through Governor Cameron, for munitions of war and assistance for our enemies; making false representations, and also applying to Mr. Bagot, British Ambassador, for his interference, with a statement, on the back of one of the letters, of munitions of war for the enemy.

*CHARGE 3.* Exciting the Indians to murder and destroy William Hambly and Edmund Doyle, and causing their arrest, with a view to their condemnation to death, and the seizure of their property, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians, they being citizens of the Spanish Government.

*Specification 1.* In writing the letters marked F, dated August 26, 1817; G, dated May 13, 1817; and H, threatening them with death, alleging against them false and infamous charges, and using every means in his power to procure their arrest; all which writings and sayings excited, and had a tendency to excite, the Indians and negroes to acts of hostility with the United States.

By order of the court:

J. M. GLASSELL,

*Recorder.*

To which charges and specifications the prisoner pleaded not guilty.

The prisoner having made application for counsel, it was granted him, when the court proceeded to the examination of the evidence.

JOHN WINSLETT, a witness on the part of the prosecution, being duly sworn, stated that some time before last July the Little Prince received a letter, signed by a Mr. Arbuthnot, advising the upper part of the nation to unite with the lower chiefs in amity, and stating that the best mode for them to repossess themselves of their lands would be to write to him, (Arbuthnot,) and he would send on their complaints to the Governor of Providence, whence it would be forwarded to His Britannic Majesty, and he would have the terms of the Treaty of Ghent attended to; he, moreover, stated his belief that the encroachments on the Indian lands were unknown to the President of the United States. The witness also identified the signature of the letter of the prisoner to his son, marked A, referred to in the first specification to the second charge, and heretofore noted as being the same with that sent to the Little Prince.

The witness, on being further interrogated, stated the language of the letter alluded to to be, that the British Government, on application, would cause to be restored to them their lands they held in 1811, agreeably to the terms of the Treaty of Ghent.

Question by the prisoner. Who is the Little Prince, or is he known by any other name?

Answer. He is known by the name of Tustenuggee Hopoy, and is the second chief of the nation.

Question. Where is the letter you allude to, or in whose possession?

Answer. It was left in the possession of the Little Prince when I last saw it.

Question. Has this Little Prince no other name than what you state?

Answer. Not that I know of.

Question. Do you swear that the letter alluded to was addressed to the Little Prince?

Answer. I do not. It was presented to me by the Little Prince to read and interpret for him, which I did.

Question. Are you certain that the letter stated that the Chief Magistrate of the United States could have had no knowledge of settlements made on Indian land, or injuries committed?

Answer. The letter stated that to be the belief of the writer.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated, with regard to the first specification of the second charge, that, being at Suwanee, in the town, about the 6th or 7th of April, he was awakened early in the morning by Mr. Ambrister's receiving, by the hands of a negro, who got it from an Indian, a letter from St. Marks, at that time stated by Ambrister to be from the prisoner.

Question by the prisoner. Did you see that letter, or hear it read?

Answer. I did see the paper, but I did not hear it read.

Question by the prisoner. Did you state that the letter was received by an Indian express?

Answer. So the black man that delivered it said.

A question being raised by a member of the court as to their jurisdiction on the third charge, and its specification, the doors were closed, and, after mature deliberation, they decided that this court is incompetent to take cognizance of the offences alleged in that charge and specification.

PETER B. COOK, a former clerk to the prisoner, and a witness on the part of the prosecution, being duly sworn, stated that, about December or January last, the prisoner had a large quantity of powder and lead brought to Suwanee in his vessel, which he sold to the Indians and negroes; that subsequent to that time, which he cannot recollect, Ambrister brought for the prisoner in his (the prisoner's) vessel nine kegs of powder, and a large quantity of lead, which were taken possession of by the negroes. The witness also identified the letters referred to in the foregoing charges and specifications, marked A, B, C, D, E, F, G, and H; also, the power of attorney, No. 1, granted by the Indians to A. Arbuthnot, being the prisoner's handwriting.

Question by the court. Have you at any time within the last twelve months heard any conversation between the prisoner and the chief called Bowlegs relating to the war between the United States and the Seminoles?

Answer. I heard the prisoner tell Bowlegs that he had sent letters to the Prince Regent, and expected soon to have an answer. Some time afterwards, some of the negroes doubted his car-

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rying those letters, when the prisoner stated that he had, but, the distance being great, it would take some time to receive an answer.

By the court. State to the court when and where you first saw the letter signed A. Arbuthnot, dated April 2, 1818, referred to in the first specification of the second charge.

Answer. About the 6th of April, a black man, who said he had received it from an Indian gave it to Mr. Ambrister, whom I saw reading it.

Question by the court. Do you know by what means that letter was conveyed to Suwanee?

Answer. I understood by an Indian who was sent from Fort St. Mark's.

Question by the court. Who paid the Indian for carrying the letter referred to in the last interrogatory?

Answer. I do not know.

Question by the court. What steps were taken by the negroes and Indians on the receipt of the letter?

Answer. They at first believed the bearer an enemy, and confined him, but, learning the contrary, began to prepare for the enemy, and the removal of their families and effects across the river; the Indians lived on the opposite side.

Question by the court. Did the Indians and negroes act together in the performance of military duty?

Answer. No; but they always said they would fight together.

Question by the court. Did not Nero command the blacks, and did not Bowlegs own Nero, and was not the latter under the immediate command of Bowlegs?

Answer. Nero commanded the blacks, and was owned and commanded by Bowlegs; but there were some negro captains who obeyed none but Nero.

Question by the court. What vessel brought to Suwanee the ammunition which you said was sold by the prisoner to the Indians and negroes?

Answer. The schooner Chance, now lying at the wharf; she is a foretopsail vessel belonging to the prisoner.

The witness also identified the manuscript of the prisoner in a paper granting him full power to act in all cases for the Indians, numbered 1; and, also, a letter, without signature, to the Governor of St. Augustine, numbered 2; further, a letter, without date, to Mr. Mitchell, Indian agent, numbered 3; and an unsigned petition of the chiefs of the Lower Creek nation to Governor Cameron, praying his aid in men and munitions of war, numbered 4; all of which the witness stated to be in the handwriting of the prisoner.

The court then adjourned to meet to-morrow morning at 7 o'clock.

FORT ST. MARK'S, April 27, 1818.

The court convened pursuant to adjournment.  
Present: Major General E. P. GAINES, *President*.

*Members:*

Colonel King,

Lieut. Colonel Gibson,

Colonel Williamson, Major Muhlenberg,  
Major Montgomery, Lieut. Col. Elliott,  
Captain Vashon, Major Fanning,  
Colonel Dyer, Major Minton,  
Lieut. Col. Lindsay, Captain Crittenden.  
Lieutenant J. M. Glassell, *Recorder*.

When the further examination of the witness,

PETER B. COOK, took place, viz:

Question by the prisoner. How long have you been acquainted with the settlement on the Suwanee?

Answer. Between six and seven months.

Question. For what term of years did you engage to live with the prisoner?

Answer. For no stated period: I was taken by the year.

Question. Were you not discharged by the prisoner from his employ?

Answer. He told me he had no further use for me after I had written the letters to Providence.

Question. Where did you stay after you were discharged?

Answer. I staid in a small house belonging to a boy called St. John, under the protection of Nero.

Question. What was the subject-matter of the letters you wrote to Providence?

Answer. After being refused by the prisoner a small venture to Providence, I wrote to my friends for the means to trade by myself.

Question. Do you believe the prisoner had knowledge of the venture being on board the schooner?

Answer. I do not believe he had; it was small and in my trunk.

Question. Do you know that Ambrister was the agent of the prisoner?

Answer. I do not.

Question. Do you think that the powder and lead shipped would more than supply the Indians and negro hunters?

Answer. I did not see the powder and lead myself, but was told by Bowlegs that he had a great quantity; he had three kegs, keeping to fight with.

Question. Did the Indians reside on the east side of the river?

Answer. They did.

Question. You were asked of the negroes and Indians, when the letter marked A was communicated, if they did not take up arms; had they received information of the defeat of the Indians at Mickasuky prior to this date?

Answer. It was afterwards, I believe, that they received the information.

Question. Did not Bowlegs keep other powder than that got from the prisoner?

Answer. He had some he got from the Bluff, which was nearly done; he said his hunters were always bothering him about powder.

Question. Did you state that, at the time Ambrister ascended the river, there was no other vessel at the mouth of the river?

Answer. There was none other there; there was one had sailed.

Question. There is a letter (A) spoken of;

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how do you know that the son of the prisoner had that letter in his possession?

Answer. I saw him with it, which he dropped, and a boy called John picked it up and gave it to me.

Question. You stated that the Indians and negroes doubted the fidelity of the prisoner in sending letters to the Prince Regent; do you think that the prisoner would have been punished by them had he not complied with their wishes?

Answer. I do not know.

Question. Do you believe that the prisoner was compelled to write the Indian communications?

Answer. He was not compelled.

WILLIAM HAMBLY, a witness on the part of the prosecution, being duly sworn, and commencing a statement of what he heard the chiefs say, and the prisoner objecting to hearsay evidence of that kind, the court was cleared, in order to take the question; when it was decided that the prisoner's objection was not valid. The witness was, therefore, recalled, and stated that, fifteen or twenty days after the prisoner's arrival at Ochlochnee, the Seminole Indians began to steal horses from the United States settlements, and commit murders on the Satilla river, which, he was informed by them, was at the instigation of the prisoner.

The chiefs of the little villages in the witness's neighborhood then desired him to write a few lines to the prisoner, stating those reports, and that he did not know that those Indians he was exciting had long been outlawed, and cautioned him against such proceedings, or he might be involved in their ruin. This the witness did, when the prisoner wrote him a long and insulting letter, (which was lost,) upbraiding the witness for calling those Indians outlaws, and accusing him of exciting the Indians to cruel war. The witness was told by all the chiefs and Indians who had seen the prisoner that he advised them to go to war with the United States if they did not surrender the lands which had been taken from them, and that the British Government would support them in it.

The Indians who took the witness and a Mr. Doyle prisoners, which happened on the thirteenth day of December last, told them it was by the prisoner's order; and on their arrival at Mickasky, (as prisoners,) Kenhagee, and all his chiefs, told them it was by the prisoner's orders they were taken and robbed. On their arrival at Suwanee, they were told by the Indian and negro chiefs, who sat in council over them, that the prisoner had advised that he should be given up to five or six Choctaw Indians, who were saved from the negro fort, who would revenge themselves for the loss of their friends at that place. On their return from Suwanee, the chief Kenhagee told them that he had got the prisoner to write several letters for him; one to the Governor of Providence, one to the British Minister at Washington, one to the Secretary of State in London, and one to the American agent for Indian affairs, protesting against the proceedings of the commanding officer at Fort Scott.

While the witness was at Suwanee, the Indian chief told him that the prisoner had arrived at that place with ten kegs of powder on board of his vessel; and, while in Fort St. Mark's, sometime in March, Hillis Hadjo, or Francis, brought an order from the prisoner to the commandant for two kegs of powder, with other articles, which were in his possession.

Question by the court. Were any murders or depredations committed on the white settlements by the Indians previous to the prisoner's arrival at Ochlochnee?

Answer. None, except one murder near Fort Gaines, which was before or about the time of the prisoner's arrival.

Question. How long have you resided among the Indians? State to the court whether you are acquainted with the Indian language, and how long since you learned it?

Answer. I have resided among them fourteen years, and have understood their language twelve years.

Question. Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements had it not been at the instigation of the prisoner, and a promise, on his part, of British protection?

Answer. I do not believe they would without being assured of British protection.

Question. What was the light in which the prisoner was viewed by the hostile Seminoles; was it that of an authorized agent of the British Government?

Answer. The different chiefs always represented him to me as such.

The witness recognised the letter marked G, and signed A. Arbuthnot, as being a copy of the one alluded to in his testimony as lost.

Question by the president. Are you acquainted with the prisoner's handwriting?

Answer. I have seen it, but cannot say I am acquainted with it.

Question. Is that which you have just seen, and say is the copy of the one you lost, the prisoner's handwriting?

Answer. It looks to be his handwriting, but I cannot say positively.

Question. Was the prisoner considered as the agent of the Seminoles at the time those murders were committed?

Answer. I had not seen the prisoner at that time; the Indian chiefs told me that the prisoner had reported himself to them as an English agent.

Question. Where did you understand the prisoner to be when you were taken prisoner?

Answer. The Indians told us that he had gone over to Providence, but was expected back by the time we should arrive at Suwanee.

Question. Did you not request Kenhagee to prevail upon the prisoner to give you a passage in his schooner to Providence?

Answer. Yes; but was told that the prisoner refused it, stating that, if we were forced upon him, he would blindfold us, and make us walk overboard.

Question. What were the reasons given by



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Kenhagee for the prisoner's not granting your request?

Answer. Kenhagee stated that the prisoner was fearful of meeting with an American vessel, when we should be taken out, and he thereby lose his schooner.

EDMUND DOYLE, a witness on the part of the prosecution, being duly sworn, was questioned as follows:

Question by the judge advocate. Do you know anything that would tend to substantiate the charges against the prisoner now before you?

Answer. I know nothing but from common report.

WILLIAM S. FULTON, an evidence on the part of the prosecution, being duly sworn, testified to the copy of a letter from A. Arbuthnot to General Mitchell, agent for Indian affairs, dated Suwanee, January 19, 1818, and marked No. 6, as acknowledged by the prisoner to be the same, in substance, as one written by himself at that time; an extract from that letter was then read to the court.

Question by the president. Where did the prisoner acknowledge the letter just read to be a copy of the one written by himself?

Answer. In the encampment before this place, about the 6th or 7th instant.

Question. Was not the acknowledgment made when he was a prisoner?

Answer. It was.

Question by the president. Did you hear a gentleman say to the prisoner, whilst in custody, that those who recommended the scalping-knife and tomahawk should feel their keenest edge?

Answer. I did hear a gentleman say that those who excited the Indians to the murder of the unoffending should feel the keenest edge of the scalping-knife; but, as well as I recollect, that observation was not made until after the repeated acknowledgments of the prisoner of having written the letter.

Question by the court. Was not the confession of the prisoner to this letter made voluntarily, and without any constraint whatever?

Answer. I conceive it was.

The evidence on the part of the prosecution being closed, the prisoner requested, as a witness, Robert C. Ambrister as one of his witnesses, against whom criminal charges had been filed, and was in custody on account thereof; to which the judge advocate objecting, the court was cleared to take its sense, when it was decided that Robert C. Ambrister, now in custody for similar offences with the prisoner, cannot be examined as evidence before the court.

JOHN LEWIS PHENIX, a previous witness, now on the part of the prisoner, being again sworn, was questioned as follows, viz:

Question by the prisoner. Was there any other vessel at the mouth of the Suwanee river when Ambrister seized your schooner?

Answer. Yes.

Question. What vessel was it? Was it not the vessel which Ambrister came in?

Answer. It was a sloop, and I understand Ambrister came in her.

Question. Did Ambrister ever mention to you who recommended him to seize the prisoner's schooner, or who assisted him in stimulating the negroes to do so?

Answer. No; I understood he came on board of his own accord.

Question by the court. Have you, since you commanded the prisoner's vessel, ever brought any arms to that part of the country?

Answer. No; I brought a quantity of lead and ten kegs of powder in the last trip.

JOHN WINSLETT, a former witness on the part of the prosecution, being recalled on behalf of the prisoner, was questioned as follows, viz:

Question by the prisoner. Are you not of opinion that the letter which you say was written by the prisoner to the Little Prince is now in the possession of the Little Prince?

Answer. After reading it, I returned it to him, and I believe it to be still in his possession, as Indians seldom destroy papers of that kind.

The prisoner requesting some time to make up his defence, he was given until to-morrow evening, at four o'clock.

FORT ST. MARK'S, April 28, 1818,  
*Four o'clock P. M.*

The recorder having read over the proceedings of the court with closed doors, the prisoner was recalled into court, and made the defence marked K, and attached to these proceedings. The doors were then closed, and, after the most mature deliberation on the evidence adduced, the court find the prisoner, Alexander Arbuthnot, guilty of the first specification to the first charge, and guilty of the first charge; guilty of the first and second specifications to the second charge, and guilty of the second charge, leaving out the words "acting as a spy;" they, therefore, do, on the most mature reflection, sentence the prisoner, Alexander Arbuthnot, to be *suspended by the neck until he is dead*; two-thirds of the court concurring therein.

EDMUND P. GAINES,  
*Major General, Pres. of the Court.*  
J. M. GLASSELL, *Recorder.*

A.

*From A. Arbuthnot to his son, John Arbuthnot.*

FORT ST. MARK'S, April 2, 1818,  
*nine o'clock in the morning.*

DEAR JOHN: As I am ill able to write a long letter, it is necessary to be brief. Before my arrival here, the commandant had received an express from the Governor of Pensacola, informing him of a large embarkation of troops, &c., under the immediate command of General Jackson; and the boat that brought the despatch reckoned eighteen sail of vessels off Appalachicola. By a deserter that was brought here by the Indians, the commandant was informed that three thousand men, under the orders of General Jackson, one thousand foot and sixteen hundred horse, un-

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der General Gaines, and five hundred under another General, were at Prospect Bluff, where they are rebuilding the burnt fort; that one thousand Indians, of different nations, were at Spanish Bluff, building another fort under the direction of American officers; that, so soon as these forts were built, they intended to march—they have commenced. Yesterday morning advice was received that they had appeared near — and taken two of the sons of McQueen and an Indian. Late in the afternoon three schooners came to anchor at the mouth of the river, and this morning the American flag is seen flying on the largest.

I am blockaded here; no Indians will come with me; and I am now suffering from the fatigue of coming here alone.

The main drift of the Americans is to destroy the black population of Suwanee. Tell my friend Boleck that it is throwing away his people to attempt to resist such a powerful force as will be down on Suwanee; and, as the troops advance by land, so will the vessels by sea. Endeavor to get all the goods over the river in a place of security, as also the skins of all sorts; the corn must be left to its fate. So soon as the Suwanee is destroyed, I expect the Americans will be satisfied, and retire; this is only my opinion; but I think it is conformable to the demand made by General Gaines of Kenhagee some months since. In fact, do all you can to save all you can; save the books particularly. It is probable the commandant will receive some communication from the vessels to-day, when he will know more certainly what are their motives in coming off the fort. I think it is only to shut up the passage to the Indians. Twenty canoes went down the river yesterday, and were forced to return. The road between this and Mickasuky is said to be stopped. Hillis Hadjo and Homathlemico were here late last night to hear what vessels; they will remove all their cattle and effects across St. Mark's river this morning, and perhaps wait near thereto for the event.

I have been as brief as I can, to give you the substance of what appear facts that cannot be doubted; to enter into details in the present moment is useless. If the schooner is returned, get all the goods on board of her, and let her start off for Mannatee creek, in the bottom of Cedar Key bay; you will then only have the skins to hide away. But no delay must take place, as the vessels will, no doubt, follow the land army, and perhaps even now some are gone round. I pray your strictest attention, for the more that is saved will be eventually more to your interest. Let the bearer have as much calico as will make him two shirts, for his trouble; he has promised to deliver this in three, but I give him four days.

I am yours, affectionately,

A. ARBUTHNOT.

B.

*From A. Arbuthnot to Charles Cameron, Governor of Bahamas.*

SIR: Being empowered by the chiefs of the

Lower Creek nation to represent the state of their nation to your excellency, that you may be pleased to forward the same for the information of His Majesty's Government, to whom alone they look up for protection against the aggressions and encroachments of the Americans, I beg leave to submit to your excellency the enclosed representations, humbly praying that your excellency will be pleased to take an early opportunity of forwarding the same to Great Britain.

I am also instructed by Boleck, chief of Suwanee, to make the demand herein enclosed, he never having had any share of the presents distributed at Prospect Bluff, though he rendered equally essential services as any of the other chiefs to the British cause while at war with America, and was at New Orleans with a part of his warriors. His frontiers being more exposed to the predatory incursions of the back Georgians, who enter his territory and drive off his cattle, he is obliged to have large parties out to watch their motions, and prevent their plundering; and being now deficient of ammunition, he prays your excellency will grant his small demand.

Humbly submitting the same, I have the honor to remain your excellency's most humble servant,  
A. A.

*The humble representations of the chiefs of the Creek nation to His Excellency Governor Cameron.*

First, we beg leave to represent that Edmund Doyle and William Hambly, late clerks at Prospect Bluff to Messrs. Forbes, and who still reside on the Appalachicola river, we consider as the principal cause of our present troubles and uneasiness. Hambly was the instrumental cause of the fort at Prospect Bluff being destroyed by the Americans, by which we lost the supplies intended for our future wants. Since then both these men have kept emissaries among us, tending to harass and disturb our repose, and that of our brethren of the Middle and Upper nations; they spread among us reports that the Cowetas, aided by the Americans, are descending to drive us off our land; they equally propagate false.

C.

*From A. Arbuthnot to Benjamin Moodie, Esq., enclosing letters to Charles Bagot, Esq., British Minister at Washington.*

SUWANEE, IN THE CREEK NATION,  
January 27, 1818.

SIR: The enclosed containing matter of serious moment, and demanding the immediate attention of his excellency the British Ambassador, I trust he will, for this time, forgive the trifling expense of postage, which I have endeavored to prevent as much as possible by comprising much matter in one sheet of paper. Should you, sir, be put to any trouble or expense by this trouble I give you, on being made acquainted with the same, I will instruct Bain, Dunshee, & Co., to order payment of the same.

I have the honor to be, &c.,

A. ARBUTHNOT.

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*From A. Arbuthnot to the Hon. Charles Bagot.*

SIR: It is with pain I again obtrude myself upon your excellency's notice; but the pressing solicitations of the chiefs of the Creek nation, and the deplorable situation in which they are placed by the wanton aggressions of the Americans, I trust your excellency will take as a sufficient apology for the present intrusion.

In August last, the head chief of the Seminole Indians received a letter from General Gaines, of which I have taken the liberty of annexing your excellency the contents, as delivered me by the chief's head English interpreter, with Kenhagee's reply thereto.

This letter appears to have been intended to sound the disposition of the chief, and ascertain the force necessary to overrun the nation, for from then until an actual attack was made on Fowl Town, the same General, with General Jackson, seems to have been collecting troops and settlers in various quarters.

If your excellency desires to have further information respecting the situation of this country and its inhabitants, I can, from time to time, inform your excellency of such facts and circumstances as are stated to me by chiefs of known veracity, or which may come under my own observation; and your excellency's orders addressed to me at New Providence will either find me there, or be forwarded me to this country.

With great respect, I have the honor to be, &c.,  
A. A.

[The following memoranda were on the back of the foregoing letter.]

Kenhagee, 1,000; Boleck, 1,500; Oso Hatcho, Choctawhatchy, 500; Himashy Mico, Chatahoochee, 500;—at present with Hillis Hadjo. At present under arms, 1,000 and more, and attacking those Americans who have made inroads into their territory.

A quantity of gunpowder, lead, muskets, and flints, sufficient to arm one thousand to two thousand men.

Muskets, 1,000, more smaller pieces, if possible; 10,000 flints, a proportion for rifle put up separate; 50 casks gunpowder, a proportion for rifle; 2,000 knives, six to nine-inch blades, good quality; 1,000 tomahawks; 1000 pounds vermilion; 2,000 pounds lead, independent of ball for muskets.

KENHAGEE,  
BOLECK.

(No. 1.)

*From General Gaines to the Seminole Chiefs.*

TO THE SEMINOLE CHIEFS: Your Seminoles are very bad people; don't say whom; you have murdered many of my people, and stolen my cattle; and many good houses, that have cost me money, you have burnt for me; and now that you see my writing, you will think I have spoken right. I know it is so—you know it is so; for now you may say I will not go upon you at random; but just give me the murderers, and I will show them my law; and when that is fin-

ished and passed, if you will come about any of my people, you will see your friends; and if you see me, you will see your friend. But there is something out in the sea, a bird with a forked tongue; whip him back before he lands, for he will be the ruin of you yet; perhaps you do not know who or what I mean—I mean the name of Englishmen.

I tell you this, that if you do not give me up the murderers who have murdered my people, I say I have got good strong warriors with scalping knives and tomahawks. You harbor a great many of my black people among you at Suwanee. If you give me leave to go by you against them, I shall not hurt anything belonging to you.

GENERAL GAINES.

(No. 2.)

*From Kenhagee to General Gaines, in answer to the foregoing.*

You charge me with killing your people, stealing your cattle, and burning your houses. It is I that have cause to complain of the Americans. While one American has been justly killed while in the act of stealing cattle, more than four Indians have been murdered while hunting by those lawless freebooters. I harbor no negroes. When the Englishmen were at war with America, some took shelter among them; and it is for you white people to settle those things among yourselves, and not to trouble us with what we know nothing about. I shall use force to stop any armed Americans from passing my towns or on my lands.

KENHAGEE.

To General GAINES.

D.

*"Note of Indian talks."*

In August, Cap had a letter from General Gaines, in substance as annexed, No. 1, and returned the answer as by No. 2. Nothing further was said on either side. The end of October, a party of Americans from a fort on Flint river surrounded Fowl Town during the night, and began burning it; the Indians then in it fled to the swamp, and in their flight had three persons killed by fire from the Americans; they rallied their people, and forced the Americans to retire some distance, but not before they had two more persons killed. The Americans built a block-house or fort where they had fallen back to, and immediately sent to the forts up the country for assistance, stating the Indians were the aggressors. One of those letters falling into the hands of General Mitchell, he made inquiry, and found his people were the aggressors, and also settled with Inhimathlo for the loss his people had suffered; at the same time sending a talk to Kenhagee, by a headman, Opony, that he would put things in such a train as to prevent further encroachments, and get those Americans to leave the forts. But no sooner was this good talk given, and before the bearer of it returned home, than hundreds of Americans came pouring down on the Indians. Roused to a sense of their own

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danger, they flew to arms, and have been compelled to support them ever since. It is not alone from the country, but by vessels entering Appalachicola river, that troops and settlers are pouring into the Indian territory, and, if permitted to continue, will soon overrun the whole of the Indian lands.

From the talk sent Kenhagee by General Mitchell, I am in hopes that those aggressions of the Americans on the Indian territory are not countenanced by the American Government, but originate with men devoid of principle, who set laws and instructions at defiance, and stick at no cruelty and oppressions to obtain their ends. Against such oppressors the American Government must use not only all their influence, but, if necessary, force, or their names must be handed down to posterity as a nation more cruel and savage to the unfortunate aborigines of this country than ever were the Spaniards, in more dark ages, to the natives of South America.

The English Government, as the special protectors of the Indian nations, and on whom alone they rely for assistance, ought to step forward and save those unfortunate people from ruin; and as you, sir, are appointed to watch over those interests, it is my duty, as an Englishman, and the only one in this part of the Indian nation, to instruct you of the talks the chiefs bring me for your information; and I sincerely trust, sir, you will use the powers you are vested with for the service and protection of these unfortunate people, who look up to you as their saviour. I have written General Mitchell, who I learn is an excellent man, and, as he acts as Indian agent, I hope his influence will stop the torrent of innovators, and give peace and quietness to the Creek nation.

I pray you excellency will pardon this intrusion, which nothing but the urgency of the case would have induced me to make.

I have the honor to be, &c.

A. A.

E.

*From Cappachimico and Boleck to Governor Cameron.*

It is with pain we are again obliged to obtrude ourselves on your excellency's notice, in consequence of the cruel war we have been forced into by the irruption of the Americans into the heart of our lands. It will be first necessary to state to your excellency that one head chief, Kenhagee, received a letter from General Gaines in August last, a copy of which is enclosed, with the answer returned thereto. This letter only appears to have been a prelude to plans determined on by the said General and General Jackson, to bring on troops and settlers to drive us from our lands and take possession of them; for, in the end of October, a party of Americans surrounded Fowl Town during the night, and in the morning began setting fire to it, making the unfortunate inhabitants fly to the swamp, and who, in their flight, had three persons killed by the fire of the Americans. Our Indians, rallying, drove the Americans from the town, but, in their

exertions, had two more of their people killed. The Americans retired some distance and built a fort or block-house to protect themselves until the assistance they had sent for to the forts up the country should arrive. A letter falling into the hands of General Mitchell, the Indian agent, which stated the Indians to have been the aggressors, he suspected its truth, and, on inquiry, found it was the reverse; in consequence, he made satisfaction to Inhimathlo, the chief of Fowl Town, and his people, for the injuries and losses they had sustained; at the same time he desired a talk to be sent to our head chiefs, stating his wish to see all the Indians friends, and that in twenty days he would send and get the Americans to retire from the forts. But this had no effect on the lawless invaders of our soil, for, before the bearer of the talk could return home, he met hundreds of Americans descending on us; they have also settlers and troops which come from Mobile, and go up the Appalachicola river. Thus, seeing no end to those inroads, necessity compelled us to have recourse to arms, and our brethren are now fighting for the land they inherited from their fathers, for their families and friends. But what will our exertions do without assistance? Our sinews of war are almost spent; and harassed as we have been for years, we have not been able to lay by the means to provide for our extraordinary wants; and to whom can we look up to for protection and support, but to those friends who have at all former times held forth their hands to uphold us, and who have sworn, in their late treaty with the Americans, to see our just rights and privileges respected and protected from insult and aggression? We now call on your excellency, as the representative of our father, King George, to send such aid in ammunition as we are absolutely in want of, as our brother chief, Hillis Hadjo, was informed, when in England, that, when ammunition was wanted to enable us to protect our just rights, your excellency would supply us with what was necessary. We have applied to the Spanish officer at the fort of St. Mark, but his small supply prevents his being able to assist us, and we have only on your excellency to depend. We likewise pray your excellency would be pleased to send an officer or person to lead us right, and to apportion the supply you may be pleased to send us agreeably to our proper wants.

In praying your excellency will lend an ear to our demand, and despatch it without delay, we remain your excellency's most obedient friends and servants,

CAPPACHIMICO,  
BOLECK,

*For ourselves and all the other chiefs  
of the Lower Creek nation.*

His Exc'y Governor CAMERON.

F.

*Letter from A. Arbuthnot to Colonel E. Nicholls.*

NASSAU, N. P., August 26, 1817.

SIR: Especially authorized by the chiefs of the

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Lower Creek nation, whose names I affix to the present, I am desired to address you, that you may lay their complaint before His Majesty's Government. They desire it to be made known that they have implicitly followed your advice in living friendly with the Americans, who were their neighbors, and nowise attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood, on the Chatahoochee: rather than make resistance, they have retired lower in the peninsula. The town of Ecan Halloway, where Otis Mico was chief, is one instance of the encroachments of the Americans. This town is situated under the guns of Fort Gaines; and Micco was desired to submit to the Americans, or his town would be blown to atoms; rather than do so, he retired, and is now living in the lower nation; and his fields, and even where the town stood, is ploughed up by the Americans. They complain of the English Government neglecting them after having drawn them into a war with America; that you, sir, have not kept your promise of sending people to reside among them; and that, if they have not some person or persons resident in the nation to watch over their interests, they will soon be driven to the extremity of the peninsula. You left Mr. Hamby to watch over the interests of the Creek nation, but you had hardly left the nation when he turned traitor, and was led by Forbes to take the part of the Americans. His letter to me, of which I annex you a copy, will show you what lengths he could go if he had the means. It is Hamby and Doyle who give the Indians all the trouble they experience; they send their emissaries among the Lower Creeks, and make them believe the Cowetas, aided by the Americans, are arming against them: thus both are put in fear; and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing the chief of the Coweta towns that they ought to live on friendly terms with their brethren of the lower nation, whose wishes were to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered by them rather favorably, and I hope the talk that was sent to the Big Warrior last June will heal the difference between them.

Hillis Hadjo arrived in my schooner at Ochlochnee Sound last June, and was well received by all the chiefs and others who came to welcome him home. In consequence of his arrival, a talk was held, the substance of which I put on paper for them, and it was sent with a pipe of peace to the other nations. Hillis Hadjo wished to return to Nassau with me, but I prevailed on him to stay in the nation, and keep them all at peace. I regret, sir, to notice this poor man's affairs, though by his desire: it appears that he arrived in Nassau a short time after I had left it, in January, and Captain W. being here, took charge of him, his goods and money, prevailing on the Governor to let him stay with him until he went down to

the nation, which it was his intention to do. Of the money received of Governor Cameron, he had only given him eighty dollars, by Captain W., a barrel of sugar, a bag of coffee, and a small keg of rum; and the interpreter, Shugert, informed me that when Hillis Hadjo asked for an account, Captain W. refused, it, saying it would be useless to a man who could not read. He also misses two cases, one of which contained, he thinks, crockery; I have made inquiry of His Majesty's ordnance storekeeper, and he informs me the whole were delivered to Captain W.; they are therefore lost to Hillis Hadjo.

I am desired to return Hillis Hadjo's warmest acknowledgments for the very handsome manner you treated him in England, and he begs his prayer may be laid at the foot of His Royal Highness the Prince Regent. I left him and all his family well on the 20th of June. Old Capachimico desires me to send his best respects, and requests that you would send out people to live among them, and all the land they took from Forbes shall be theirs. At all events, they must have an agent among them, to see that the Americans adhere to the treaty, and permit them to live unmolested on their own lands. This agent should be authorized by His Majesty's Government, or he will not be attended to by the Americans. In the gazettes of Georgia, the Americans report the Seminole Indians are continually committing murders on their borders, and making incursions into the State. These are fabrications tending to irritate the American Government against the poor Indians; for, during the time I was in the nation, there was only one American killed, and he, with two others, was in the act of driving off cattle belonging to Bowlegs, chief of Suwanee; whereas three men and a boy were killed last June, by a party of American cattle-stealers, while in their hunting-camps; the boy they scalped; and one of Bowlegs' headmen was killed on St. John's river, in July. The back-woods Georgians, and those resident on the borders of the Indian nation, are continually entering it, and driving off cattle. They have, in some instances, made settlements, and particularly on the Choctowhatchy river, where a considerable number have descended.

By the treaty with Great Britain, the Americans were to give up to the Indians all the lands that they may have taken from them during the war, and place them on the same footing they were in 1811. It appears they have not done so; that Fort Gaines, on the Chatahoochee river, and Camp Crawford, on the Flint river, are both on Indian territory, that was not in possession of the Americans in 1811. They are fearful that, before any aid is given by the English Government, they will no longer be in possession of any territory.

I wrote last January to his excellency the honorable Charles Bagot, respecting the encroachments of the Americans; as I was informed by the copy of a letter from the right honorable Earl Bathurst, handed me by his excellency Governor Cameron, that His Majesty's ambassador

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had received orders to watch over the interests of the Indians. Since my return here, I have received of Mr. Moodie, of Charleston, an extract of a letter from the honorable Charles Bagot, stating that the expense of postage is so considerable, that any further communications of the same nature must be sent him by private hands. Now, sir, as no person goes direct from this to Washington, how am I to be able to comply with his desire? Thus he will be kept ignorant of the real situation of the poor Indians, and the encroachments daily made on their lands by American settlers: while he may be told by the American Government that no encroachments have been made, and that the forts they still hold are necessary to check the unruly Seminoles. Thus the person appointed to watch over the interests of the Indians having no other means of information than from the parties interested in their destruction, and seeing from time to time, in the American gazettes, accounts of cruel murders, &c. committed by the Indians on the frontier settlements of the United States, he apprehends the Indians merit all the Americans do to them.

But let His Majesty's Government appoint an agent, with full powers, and to correspond with His Majesty's ambassador at Washington, and his eyes will then be opened as to the motives that influence American individuals, as well as the Government, in vilifying the Indians. The powers given me and the instructions were to memorialize His Majesty's Government as well as the Governor General of Havana; but if you will be pleased to lay this letter before His Majesty's Secretary of State, it will save the necessity of the first; and I fear that a memorial to the Governor General would be of no use. Referring you to the answer,\* I am, most respectfully, sir, your obedient servant,

A. ARBUTHNOT.

Lt. Col. E. NICHOLLS.

G.

*From A. Arbuthnot to William Hambly.*

OCHLOCHNEE SOUND, May 3, 1817.

SIR: On my return here this day, I received a letter signed by you, and dated the 23d March. As you therein take the liberty of advising me, as you say, by order of the chiefs of the Creek nation, I am glad of, and shall embrace this opening you give me, and reply to you at some length. First, sir, let me premise that, when you lived at Prospect Bluff, a clerk to Messrs. Forbes & Co., you did not consider Cappachimico, McQueen, or any other of the chiefs of the Lower Creek nation, as outlaws, nor have they ever been considered as such by the English Government, who are the especial protectors of the Indian nations; and it ill becomes Mr. Hambly to call Cappachimico an outlaw—that man who has ever been his friend, and by his authority has prolonged his life. Yes, sir, the young chiefs and warriors of the Creek nation, considering you as the chief

cause of their troubles, would have long ere this had possession of you, and, perhaps, with your life made you pay the forfeit for the injuries heaped on them; had not that man, who has been your friend from your early youth, stepped in as your protector. Yet this is the man whom Mr. Hambly presumes to call an outlaw! A pardoned villain, when going to the gallows, would bless the hand that saved his life; but Mr. Hambly blasphemes his saviour!

As Mr. Hambly's generous friend is the principal cause of my being in this country, as an honest man I shall endeavor to fulfil my promise to him and the other chiefs. The guilty alone have fear; an honest and upright man dreads no danger, fears no evil, as he commits no ill; and your arm of justice ought to be applied where it would rightly fall—on the heads of the really guilty. Your mean and vile insinuation, that I have been the cause of thefts and murders, comes ill from him who has been the cause of the murder of hundreds. Though your usage was made villainous at the fort, yet your revenge was too savage and sanguinary. If your conduct, sir, to the Indians were guided by as pure motives as mine, you would endeavor to influence them to esteem and respect each other as brothers, and live in harmony and friendship; cultivating their lands in Summer, and taking their diversions of hunting in Winter; respecting their neighbors, and making yourself respected by them. If thus, sir, you would act, (and by your knowledge of their language you have much more in your power than any other man,) you would then be the true friend of the Indians. Were I an instigator to theft and murder, would I hold the language I have done to the chiefs and others who have called on me? Ask the lieutenant commanding at Fort Gaines if my letter to him breathed the strains of a murderer; ask Opony Hatcho, or Dany, his interpreter, if the commendatory note I sent him by order of Opony could be written by an instigator to murder; ask Opony himself if my language to him was that of a murderer; ask Mappalitchy, a chief residing among the Americans on Ockmulgee, if my language and advice to him savored of that of a murderer. All those, and every Indian who has heard my talks, will contradict your vile assertions.

But Mappalitchy has given me a clue by which I can unravel from whence the aspersions come: not from Opony Hatcho, or any of the chiefs of the upper towns, but from him who endeavors to lead them to mischiefs and quarrels with each other. Did not the chiefs hear my note read with respect, and perfectly accord with my sentiments of being all as brethren, uniting in the bonds of friendship and love? Did not they agree to smoke the pipe of peace with their brethren of the lower nation, and live in future as brothers? What made some of them alter their minds afterwards? The interference of a humane man, who caused them to write a letter to me demanding my removal from a band of outlaws, and which letter is signed "William Hambly."

\* See the unsigned paper, No. 71.

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I shall only make one more observation, and that will show from whence I came, and whether I came amongst the Indians as a revenger, or as the friend of peace and harmony.

In the Spring of 1816, Mr. Hambly sent Governor Cameron a letter containing talks of the chiefs of the Indian nations: they were forwarded to England, and his excellency handed me, on my leaving Providence, an answer thereto from the right honorable Earl Bathurst, one of His Majesty's chief Secretaries of State, that I might make the same known to the chiefs on my arrival in the nation. What will Governor Cameron think of the man who, in 1816, could write against the encroachments of the Americans on the Indian nation, and in the Spring of 1817 call the chiefs of that nation, for whom he more especially wrote, outlaws? Mr. Hambly may sell his services to America, but no man can expatriate himself from the allegiance due to his native country; and a Government may call on a friendly nation to give up a subject that has seriously wronged her.

I recommend Mr. Hambly to be content with the *douceur* he may have received, and permit the unlettered Indian to live quietly and peaceably on his native land.

I shall send a copy of this letter with the one from you, to be read to the chiefs of the nation, and shall, at the same time, take an opportunity of explaining myself more fully than I did in the note sent by Opony. Wishing you a speedy recantation of your errors, and a return to your former way of thinking, I am your obedient servant,

A. ARBUTHNOT.

H.

*Letter from A. Arbuthnot to the Governor of Havana.*

The chiefs of the Creek nation, whose names are hereunto annexed, beg leave to approach your excellency and represent their complaints. Long imposed on by the persons keeping stores in this country, in charging us exorbitant prices for their goods, while they only allowed us a very trifling one for our peltry, we have found it necessary to look out for a person that will deal fairly with us, and we wish to establish a store for him on Appalache river. We have made application to the commandant of St. Mark's, and he has referred us to your excellency. It is not alone the impositions that have been practised upon us that has made us presume to address your excellency; we have complaints of a more serious nature against the persons employed by the only house that has been established among us, that of Mr. Forbes. In the first place, some years back, under false pretences, they attempted to rob us of a very large portion of our best lands, and we the more readily acceded to it, from the faithful promise given us that they would get English people to settle it and live among us; but far from doing this, Mr. Forbes attempted to sell it to the American Government, and settle it with Americans. Thus finding ourselves de-

ceived and imposed on, we withdrew our grant about three years since, which, from the stipulations contained therein not being fulfilled on the part of Mr. Forbes, we conceived we had a right to do. Secondly, Mr. Doyle and Mr. William Hambly, the two persons left in the nation to carry on Mr. Forbes's business have, for more than two years, been endeavoring to influence us to join the Americans; and finding that fair means would not swerve us from our attachments to our ancient friends, the English, they have recently had recourse to threats of bringing the Americans down upon us; and that people only want a pretext to attack us, which the said Doyle and Hambly attempt to give them by spreading false reports of our murdering the Americans, stealing their cattle, and preparing for war against them, while, in fact, it is the Americans who murder our red brethren, steal our cattle by hundreds at a time, and are daily encroaching on our lands, and maintaining the settlers in their ill-gotten possessions by armed force.

On the Choctawhatchy river there is a large body of Americans, forming settlements, and more are daily joining them. As this river is far within that line marked out by your excellency's Government and the Americans some years since, (though that line was unknown to us until very lately, and we never gave our sanction, nor, in fact, knew of any sale of our lands being made to the Americans,) we trust your excellency will give orders to displace them from within the line, and send them back to their own country. Our delaying to address your excellency to represent the afore-mentioned grievances has been owing to the want of a person to attend to our talks, and put them in writing for us. The commandant of the fort of St. Mark has heard all our talks and complaints. He approves of what we have done and what we are doing, and it is by his recommendation we have thus presumed to address your excellency.

We have the honor to be your excellency's most obedient and very humble servants,

A. ARBUTHNOT.

His Ex'cy the GOVERNOR GENERAL, &c.

No. 1.

*Power of attorney from the Indian chiefs to A. Arbuthnot.*

Know all men by these presents, that we, chiefs of the Creek nation, whose names are affixed to this power, having full faith and confidence in *Alexander Arbuthnot*, of New Providence, who, knowing all our talks, is fully acquainted with our intentions and wishes, do hereby, by these presents, constitute and appoint him, the said *Alexander Arbuthnot*, our attorney and agent, with full power and authority to act for us and in our names in all affairs relating to our nation, and also to write such letters and papers as to him may appear necessary and proper for our benefit, and that of the Creek nation.

Given at Ochlochnee Sound, in the Creek na-

*Relations with Spain.*

tion, this seventeenth day of June, one thousand eight hundred and seventeen.

Cappachimico, his x mark; Kenhagee, chief of the Mickasukies.

Inhimathlo, his x mark; chief of the Fowl towns.

Charle Tustonaky, his x mark: Charle Nishomatti, second chief of the Ockmulgee towns.

Otos Mico, his x mark; chief of the Conholoway, below Fort Gaines.

Ochacona Tustonaky, his x mark; Opony, chief of the Ockmulgee towns.

Imathluche, his x mark; chief of the Attapulgas.

Inhimathluchy, his x mark; chief of the Palatchocoleys.

Lahoe Himathlo, his x mark; chief of the Chehaws.

Homathlemico, his x mark; chief of the Red Sticks.

Talmuches Hatcho, his x mark; Peter McQueen, chief of the Tallapasses, (an old Red Stick.)

Hillis Hadjo, his x mark; Francis, the prophet.

Opoithlimico, his x mark; a Red Stick, created chief by the lower towns.

Witness: PETER SHUGERT, *Interpreter.*

I certify that the Indian chiefs whose signatures are placed above to the full powers granted to Alexander Arbuthnot are the chiefs of the towns and places above named.

WILLIAM HAMBLBY.

Witness: WILLIAM S. FULTON,  
*Private Secretary to Com'g General.*

No. 2.

[Supposed to be from Bowlegs to the Governor of St. Augustine.]

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer to the same is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you, and hope you will, when occasion offers, advise me of such things as may be of service to myself and people. My warriors and others that go to St. Augustine return with false reports tending to harass and distress my people, and preventing them from attending to their usual avocations. At one time the Americans and upper Indians, supported by a force of about three thousand men, were running lines far within the Indian territory; at another time, they were collecting a force at Fort Mitchell, in the forks of Flint and Chatahoochee rivers, to fall on the towns below. Now, sir, we know of no reason the Americans can have to attack us, an inoffensive and unoffending people. We have none of their slaves; we have taken none of their property since the Americans made peace with our good father, King George. We have followed the orders of his officer that was with us, (Lieutenant Colonel Edward Nicholls),

and in nowise molested the Americans, though we see them daily encroaching on our territory, stealing our cattle, and murdering and carrying off our people. That same officer also told us, we, as allies to the great King, our father, were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before and during the war. Yet, so far from complying with the ninth article of that treaty, they are daily making encroachments on our land, getting persons who are not known to the chiefs, and without any power or authority to grant and sign over lands to them. Thus they deceive the world, and make our very friends believe we are in league with them.

The principal chiefs of the nation, with the head warriors, assembled at my town on the 8th instant, and came to the resolution of informing the British Minister at Washington of the conduct of the Americans and the officers of their Government towards us; it has been done accordingly, and copies sent to England. We demand of the King, our father, to fix some of his people among us, who may inform him from time to time of what is passing, and see the Americans do not extend themselves on our lands. The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the Governors I shall always entertain the greatest regard; but for the people, they do not act so as to merit my esteem and protection. You desire I would chase those marauders who steal my cattle: my people have lately driven some Americans from Lahhewary, and I have no doubt the Americans will lay hold of this as a pretext to make war on us, as they have before done, in stating we harbor their runaway slaves.\*

To His Ex'cy Don JOSE COPPINGER,  
*Governor of St. Augustine.*

No. 3.

SIR: Kenhagee, the head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and American people. But, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but ascending the Appalachicola in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders. Your known philanthropy and goodwill to the Indians induce the head chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands, and order that those who have already presumed to seize our fields may retire therefrom.

\* See this letter, (No. 66,) and Governor Coppinger's answer.



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The Indians have seized two persons who they think have been greatly instrumental in bringing the Americans upon them, and they are now in their possession as prisoners. It is even reported they have made sales of Indian lands without the knowledge, consent, or approbation of the chiefs of the nation; and, from their long residence in the nation, and the great influence that one of those people formerly enjoyed among the chiefs as their chief, there is some reason to believe he has been guilty of improper conduct with regard to the Indian nation.\*

General MITCHELL,  
*Agent for Indian Affairs.*

## No. 4.

*Petition of the chiefs of the Lower Creek nation to Governor Cameron.*

We, the undersigned, have been deputed by the chiefs of the Creek nation to wait on your excellency, and lay before you their heavy complaints. To the English we have always looked up as friends, as protectors; and on them we now call to aid us in repelling the approaches of the Americans, who, regardless of treaties, are daily seizing our lands and robbing our people. They have already built seven forts on our lands; they are making roads and running lines into the very heart of our country; and, without the interference of the English, we shall soon be driven from the land we inherited from our forefathers.

The Americans tell us the English will regard us no more, and that we had better submit to them; but we cannot submit to their shackles, and will rather die in defence of our country.

When peace was made between the English and Americans, we were told by Lieutenant Colonel E. Nicholls that the Americans were to give up our lands they had taken, and we were desired to live quietly and peaceably, in nowise molesting the Americans. We have strictly followed these orders; but the Americans have not complied with the treaty. Colonel Nicholls left William Hambly in charge of the fort at Prospect Bluff, with orders to hear us, if any cause of complaint, and represent the same to the British Government; but he turned traitor, and brought the Americans down on the fort, which was blown up, and many of our red brethren destroyed in it. The ammunition and stores intended for our use were either destroyed or taken off by the Americans. We have sent several messengers to inform your excellency of these proceedings of the Americans, but they have never returned to us with an answer. Three of our red brethren have lately been killed by the Americans, while hunting on our own lands; and they threaten to attack the towns of Mickasuky and Suwanee, the only two large towns left us in the Creek nation; and, without aid from your excellency, we cannot repel their attack. We are therefore deputed to demand of your excellency the assistance of troops and ammunition, that we

may be able effectually to repel the attack of the Americans, and prevent their further encroachments; and if we return without assistance, the Americans, who have their spies among us, will the more quickly come upon us. We most humbly pray your excellency will send such a force as will be respected and make us respectable.\*

[The following endorsed on the foregoing.]

Charles Cameron, Esq., Governor, Commander-in-chief, &c.

I beg leave to represent to your excellency the necessity of my again returning to the Indian nation with the deputies from the chiefs; and as my trouble and expense can only be defrayed by permission to take goods to dispose of among them, I pray your excellency will be pleased to grant me such letter or license as will prevent me from being captured, in case of meeting with any Spanish cruiser on the coast of Florida.

## No. 5.

B. Moodie to A. Arbuthnot.

BRITISH CONSULATE, CHARLESTON, S. C.,  
February 7, 1817.

SIR: I duly received your letter, dated the 8th January, with an enclosure, which I forwarded to His Majesty's Envoy, the Hon. Charles Bagot, at Washington. Since that time I have received a few lines from him, under date of the 29th ultimo, and at his desire I transmit you a copy of it annexed. I am, &c.

BENJAMIN MOODIE.

To A. BOUDINOT, Esq., Nassau.

Mr. Bagot to Mr. Moodie.

WASHINGTON, Jan. 29, 1817.

SIR: I duly received your letter of the 20th instant, enclosing one from Nassau. I shall be obliged to you if you will take an immediate opportunity of writing to the gentleman from whom you received that letter, acquainting him from me that the expenses of postage are so considerable that I must request, if he has occasion to write to me again upon the same subject, he will forward his letters by private opportunities only.

I am, sir, your obedient, humble servant,

CHARLES BAGOT.

B. MOODIE, Esq.

## No. 6.

Copy of a letter from A. Arbuthnot to General Mitchell, (enclosed by Col. Brearly, 27th February, 1818.)

SUWANEE, LOWER CREEK NATION,  
January 19, 1818.

SIR: Kenhagee, head chief of the Lower Creek nation, had called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the

\* The paper following (No. 71) is supposed to be the answer to this petition.

\* For the remainder of this letter see No. 6.

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borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but both troops and settlers ascending the Appalachicola river in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and goodwill towards the Indians in general induce the chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and paternal birthright, and also order that those who have already seized on their fields may retire therefrom.

The Indians have seized two persons known to have been greatly instrumental in bringing the Americans down on their lands, and they are now in their possession as prisoners; and they have it in report that sales of their lands have been made by those two people without the consent, approbation, or knowledge of the chiefs; and from their long residence in the nation, and the one having enjoyed great confidence in the nation, and with the chiefs, as English interpreter, there is some reason to believe those reports, when leagued with the swarms of Americans coming from Mobile and other places, seizing the best of the Indian lands. Such improper sales have actually been made.

In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war which, if persisted in, I foresee must eventually be their ruin, and, as they were not the aggressors, if, in the height of their rage, they committed any excesses, that you will overlook them as the just ebullition of an indignant spirit against an invading foe.

I have the honor to be, &c.

A. ARBUTHNOT.

*By order of Kenhagee and Bowlegs,  
acting for themselves and the other chiefs.*

To Gen. MITCHELL, Agent Indian Affairs.

CAMP BEFORE ST. MARK'S,  
April 8, 1818.

The foregoing letter was produced to A. Arbuthnot, on his examination before me, and acknowledged by him to have been written by him to General Mitchell, agent for the Creek nation.

ANDREW JACKSON.

Present: Mr. FULTON.

K.

DEFENCE.

*May it please this Honorable Court:*

The prisoner arraigned before you is sensible of the indulgence granted by this honorable court in the examination of the case now before them. It is not the wish of the prisoner, in making his

defence, to tire the patience of the court by a minute reference to the voluminous documents and papers, or to recapitulate the whole of the testimony which has come before this honorable court in the course of this investigation. Nor is it the intention of the prisoner to waste the invaluable time of this court by appeals to their feelings or sympathy, though I am persuaded that sympathy nowhere more abundantly than in a generous American breast. My only appeal is to the sound and impartial judgment of this honorable court, the purity and uprightness of their hearts, that they will dispassionately and patiently weigh the evidence which they have before them, apply the law, and on these, and these alone, pronounce their judgment.

If this honorable court please, I shall now proceed to examine the law and evidence that is relied on by this honorable court in support of the first charge and specification.

Winslett, a witness on the part of the prosecution, says: The Little Prince showed him a letter written in June last, signed A. Arbuthnot, requesting his friendship with the lower nation of Indians. The same witness stated he believed the letter to be now in the possession of the Little Prince. Here, may it please this honorable court, I would call their attention to the law relating to evidence; first premising that the rules of evidence are the same, whether in civil or military tribunals. (McCom. 99.) This point being conceded, the next inquiry is, what are the rules of evidence with respect to the admission of letters or papers of private correspondence in a court of criminal jurisdiction? May it please this honorable court, must you not produce the original letters and papers, if they are not lost or mislaid so that they cannot be obtained? And, in case they are lost, proof must be made of the handwriting being the same as that of the original, before they can be received as evidence. (McCom. on Courts-Martial. Peake's Evidence. Gilbert's Law of Evidence.) No instance can be cited where a copy of a letter was read as evidence when the original could be obtained, much less the giving in evidence the contents of such letter from bare recollection. The only proof that this honorable court has of the existence of such a letter being in the hands of any person, or its contents being known, is the vagrant memory of a vagrant individual. Make this a rule of evidence, and I ask you where would implication, construction, and invention stop? Whose property, whose reputation, or whose life, would be safe? Here I would beg leave to mention a remark made by the president of this court in the course of this investigation, which was, that, notwithstanding the letter was proved by the witness to be in the possession of the Little Prince, this court could not notice that circumstance, because there was no means by which it could be obtained. I would ask the honorable court what means have they adopted, or what exertions have they made to procure this letter? If the honorable court please, I shall here close the defence on the first charge and specification, believing

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that they are neither supported by law nor evidence.

May it please the honorable court, I will now come to the second charge, and first specification of that charge. In support of this charge and specification, the evidence before the court is a letter written to my son. If the court please, this letter was written in consequence of the situation of my property at Suwanee, and the large debts that were due me from Bowlegs and his people. Nothing, I believe, of an inflammatory nature can be found on reading the document marked A, authorizing the opinion that I was prompting the Indians to war. On the contrary, if the honorable court will examine the document marked A, they will see that I wish to lull their fears, by informing them that it was the negroes and not the Indians that the Americans were principally moving against.

If the honorable court please, I will make a few remarks upon the second specification, and then close my defence. In proof of this charge, the court have before them the evidence of Hambly, Cook, and sundry letters purporting to be written by myself to different individuals. May it please the court, what does Cook prove? Why, that I had ten kegs of powder at Suwanee. Let me appeal to the experience of the court, if they think that this quantity of powder would supply one thousand Indians, and an equal number of blacks, more than two months for hunting. As to the letters named in this specification, may it please the court, the rules of evidence laid down in the first part of this defence will apply with equal force in the present case. It remains now, may it please the court, to say something as to Hambly's testimony. And may it please this honorable court, the rule laid down in this case as to hearsay evidence will be found without a precedent. A strong case was stated by an intelligent member of this court, on the examination of this part of the evidence; that is, "would you receive as testimony what a third person had said, who, if present, you would reject as incompetent?" Apply this principle to the present case; could an Indian be examined on oath in our courts of judicature? If, then, the testimony of savages is inadmissible, Hambly proves nothing.

Here, may it please the honorable court, I close my reply to the charges and specifications preferred against me, being fully persuaded that, should there be cause for censure, my judges will, in the language of the law, lean to the side of mercy.

*Continuation of the minutes of the proceedings of a special court, whereof Major General Gaines is president, convened by order of the 26th April, 1818.*

FORT ST. MARK'S, April 27, 1818.

The court proceeded to the trial of Robert C. Ambrister, a British subject, who, being asked if he had any objections to any one of the members of the court, and replying in the negative, was arraigned on the following charges and specifications, viz:

*Charges against Robert C. Ambrister, now in custody, who says he is a British subject.*

CHARGE 1. Aiding, abetting, and comforting the enemy, supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

*Specification 1.* That the said Robert C. Ambrister did give intelligence of the movements and operations of the American army between the 1st and 20th March, 1818, and did excite them (the negroes and Indians) to war against the Army of the United States, by sending their warriors to meet and fight the American army, whose Government was in peace and friendship with the United States, and all her citizens.

CHARGE 2. Leading and commanding the Lower Creek Indians in carrying on war against the United States.

*Specification 1.* That the said Robert C. Ambrister, a subject of Great Britain, which Government was in peace and amity with the United States and all her citizens, did, between the 1st of February and 20th of March, 1818, levy a war against the United States, by assuming command of the Indians in hostility and open war with the United States, and ordering a party of them to meet the army of the United States, and give them battle, as will appear by his letters to Governor Cameron, of New Providence, dated 20th March, 1818, which are marked A, C, and D; and the testimony of Mr. Peter B. Cook, and Captain Lewis, of the schooner Chance.

By order of the court:

J. M. GLASSELL, *Recorder.*

To which charges and specifications, the prisoner pleaded as follows, viz:

To the first charge and specification, *not guilty.*

To the second charge and specification, *guilty, and justification.*

The court adjourned until to-morrow morning, at seven o'clock.

FORT ST. MARK'S, April 28, 1818.

The court met pursuant to adjournment. Present:

Major General GAINES, *President.*

*Members.*

Colonel King,	Colonel Dyer,
Colonel Williams,	Lieut. Col. Lindsay,
Lieut. Col. Gibson,	Lieut. Col. Elliott,
Major Muhlenberg,	Major Fanning,
Major Montgomery,	Major Minton,
Captain Vashon,	Captain Crittenden.
Lieutenant J. M. Glassell,	<i>Recorder.</i>

The recorder then read to the court the following order, viz:

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen.'s Office, near St. Mark's,  
April 28, 1818.

GENERAL ORDER.

Captain Allison, of the 7th infantry, is de-

*Relations with Spain.*

tailed to form a supernumerary member of the special court now sitting at Fort St. Mark's.

By order:

ROBERT BUTLER, *Adj't Gen.*

Pursuant to the above order, the supernumerary member took his seat.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated that, about the 5th or 6th of April, 1818, his vessel and himself having been captured by the prisoner, and he brought to Suwanee as a prisoner, there was an alarm among the negroes and Indians, created by learning some news from Mickasuky, at which time the prisoner appeared active in giving orders and sending a detachment to meet the army. The witness also stated that the prisoner appeared to be a person invested with authority among the negro leaders, and gave orders for their preparation for war, procuring ammunition, &c., and that the leaders came to him for orders; the prisoner furnished them with powder and lead, and recommended to them the making of balls, &c. very quickly. The witness also stated that the prisoner occasionally dressed in uniform, with his sword, and that on the first alarm, which he understood was from Mickasuky, by a negro woman, he put on his uniform. The witness further stated that, some time about the 20th of March, 1818, the prisoner with an armed body of negroes (twenty-four in number) came on board his vessel, and ordered him to pilot them to Fort St. Mark's, which he stated he intended to capture before the Americans could get there, threatening to hang the witness if he did not obey.

Question by the court. Did you ever understand by whose authority and for what purpose the accused came into the country?

Answer. I have frequently heard him say that he came to attend to Mr. Woodbine's business at the bay of Tampa.

Question by the prisoner. Did I not tell you, when I came on board the schooner Chance, I wished you to pilot me to St. Mark's, as I was informed that two Americans, by the names of Hamby and Doyle, were confined there, and I wished to have them released from their confinement?

Answer. You stated you wanted to get Hamby and Doyle from St. Mark's; I do not know what were your intentions in so doing.

Question. Did I not tell you that I expected the Indians would fire on me when I arrived at St. Mark's?

Answer. You did not; you stated that you intended to take the fort in the night by surprise.

Question. Did you see me give ammunition to the negroes and Indians; if so, how much, and at what time?

Answer. I saw you give powder and lead to the negroes when you came on board, and advised them to make balls; and I saw you give liquor and paint to the Indians.

Question. Have you not often heard me say,

between the 1st and 20th of April, that I would not have anything to do with the negroes and Indians in exciting them to war with the United States?

Answer. About the fifteenth of April I heard you say you would not have anything to do with the negroes and Indians; I heard nothing about exciting them to war.

Question. Can you read writing?

Answer. Not English writing.

Question. Did you not hear me say, when arriving at Suwanee, that I wished to be off immediately for Providence?

Answer. I did not; after the alarm, you said you wished to be off for Tampa.

Question. Did you not say to the accused you wished to visit Mr. Arbuthnot at his store on Suwanee, and get provisions yourself?

Answer. I did not; I stated I wanted provisions.

Question. Did I send or command any Indians to go and fight the Americans?

Answer. I do not exactly know that you sent them; the Indians and negroes were crowding before your door, and you were dividing the paint, &c. among them; and I understood a party was going to march.

Question. Did I not give up the schooner in charge to you as captain?

Answer. After our return from Suwanee town, you directed me to take charge of her to go to Tampa.

JOHN J. ARBUTHNOT, a witness on the part of the prosecution, being duly sworn, stated that, some time about the 23d of March, the prisoner came with a body of negroes, partly armed, to his father's store, on Suwanee river, and told the witness that he had come to do justice to the country, by taking the goods and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner stated to him that he had come to the country on Woodbine's business, to see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwanee to meet the Americans to give them battle; which party returned on meeting the Mickasuky Indians in their flight. The witness also testified to the handwriting of the letter marked A, and referred to in the specification of the second charge as the writing of the prisoner.

Question by the prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did.

Question by the prisoner. Were not the negroes alluded to at Arbuthnot's store before I arrived?

Answer. No, you came with them.

PETER B. COOK, a witness on the part of the prosecution, being duly sworn, stated that he never heard the prisoner give any orders to Indians or negroes; that the prisoner did distribute Arbuthnot's goods, and also paint, to the negroes and Indians; also, that some powder was brought from Suwanee by the prisoner; and distributed among the negroes by Nero. Some time in March the prisoner took Arbuthnot's schooner,

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and, with an armed party of negroes, about twenty-four in number, set out for St. Mark's for the purpose of taking Arbuthnot's goods at that place, and that he would compel the commandant to give them up. On hearing of the approach of the American army, the prisoner told the negroes it was useless for them to run; for if they ran any farther, they would be driven into the sea.

The prisoner told the witness that he had been a lieutenant in the British army under Colonel Nicholls. The prisoner was sent by Woodbine to Tampa to see about those negroes he had left there. The prisoner told the witness he had written a letter to Governor Cameron for ammunition for the Indians some time in March, and also told the witness that he had a commission in the patriot army under McGregor, and that he expected a captaincy. The witness testified that the letters marked A, B, C, and D, and referred to in the specification to the second charge, were in the handwriting of the prisoner; also one marked E.

Question by the prisoner. Did you not frequently hear me say that I would have nothing to do with the Indians in exciting them to war with the United States?

Answer. I do not recollect.

Question. Are you acquainted with Lewis Phenix, and have you not heard him express ill-will against me in consequence of my wishing him to pilot me to St. Mark's?

Answer. I never did.

Question. Do you know of my sending troops at any time to fight against the United States; and have I not been constantly with you, so that you would have had an opportunity of knowing if there had been any sent by me?

Answer. I have not. They might have been sent without my knowledge.

JACOB HARMON, a witness on the part of the prosecution, being duly sworn, stated that, some time in the latter end of March, or 1st of April, the prisoner took possession of the schooner Chance, with an armed party of negroes, and stated his intentions of taking St. Mark's. On his way thither, on going ashore, he learned from some Indians that Arbuthnot had gone to St. Mark's, which induced him to return. The witness also stated that while the prisoner was on board, he had complete command of the negroes, who considered him as their captain. The prisoner took the cargo of the vessel up towards Suwanee, which consisted of, with other articles, nine kegs of powder and five hundred pounds of lead.

The evidence on both sides being closed, the prisoner was allowed until five o'clock this evening to make his defence.

The time allowed the prisoner for the preparation of his defence having expired, he was brought before the court, and made the defence marked M, which is attached to these proceedings.

The court was then cleared, and the proceedings read over by the recorder, when, after due deliberation on the testimony brought forward,

the court found the prisoner, Robert C. Ambrister, guilty of so much of the specification to the first charge as follows, viz: "And did excite them to war with the United States, by sending their warriors to meet and fight the American army, he being a subject of Great Britain, which Government was at peace and friendship with the United States and all her citizens;" but not guilty of the other part of the specification; guilty of the first charge; guilty of the specification of the second charge, and guilty of the second charge; and do therefore sentence the prisoner, Robert C. Ambrister, to suffer *death*, by being *shot*, two-thirds of the members of the court concurring therein.

One of the members of the court requesting a reconsideration of his vote on the sentence, the sense of the court was taken thereon, and decided in the affirmative; when the vote was again taken, and the court sentenced the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to *hard labor* for twelve calendar months.

The court adjourned *sine die*.

EDMUND P. GAINES,  
Major Gen. President of the court.  
J. M. GLASSELL, Recorder.

A.

From Robert C. Ambrister to His Excellency, Charles Cameron, Governor of Bahamas.

SUWANEE, NEAR FORT ST. MARK'S,  
March 20, 1818.

SIR: I am requested particularly by all our Indian chiefs to acquaint your excellency that the Americans have commenced hostilities with them two years ago, and have advanced some considerable distance in their country, and are now making daily progress. They say they sent a number of letters to your excellency by Arbuthnot, but have never received one answer, which makes them believe that he never delivered them, and you will oblige them much if you will let them know whether he did or not. The purport of the letters was, begging your excellency to be kind enough to send them down some gunpowder, muskets, balls, lead, cannon, &c., as they are now completely out of those articles. The Americans may march through the whole territory in one month, and, without arms, &c., they must surrender. Hillis Hadjo, or Francis, the Indian chief, the one that was in England, tells me to let your excellency know that the Prince Regent told him that whenever he wanted ammunition your excellency would supply him with as much as he wanted. They beg me to press upon your excellency's mind to send the above-mentioned articles down by the vessel that brings this to you, as she will sail for this place immediately, and let the Prince Regent know of their situation. Any letters that your excellency may send down be good enough to direct to me, as they have great dependence in my writing. Any news that your excellency may have respecting them and America, you will be doing a great favor to let me know, that I may send among them.

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There is now a very large body of Americans and Indians, which I expect will attack us every day, and God only knows how it will be decided; but I must only say that this will be the last effort with us. There has been a body of Indians gone to meet them, and I have sent another party. I hope your excellency will be pleased to grant the favor they request. I have nothing further to add.

But am, sir, with due respect, your obedient, humble servant,

ROBERT C. AMBRISTER.

B.

*From Robert C. Ambrister to Major Edward Nicholls.*

SUWANEE, NEAR RIVER APPALACHICOLA.

DEAR SIR: Francis and all the Indian chiefs have requested me particularly to acquaint you that the Americans have commenced hostilities with them these two years past, and are making daily progress in this territory, and say they will proceed; that you are the only friend they have in that part of the world, and hope you will exert yourself in their behalf, and ask for as much assistance as can be had; that the Americans are at the forks of the river Appalachicola; they have written a number of times to England and Providence, but have never received one answer; they expect the man never delivered the letters, but they have full hopes in my writing; they request you will make the Prince Regent acquainted with their deplorable situation. The Americans have been very cruel ever since they have commenced, and hope you will not lose a single moment in forwarding their views; they say they will be extremely happy to see you out; nothing would give them greater pleasure than to see you out at this present time. If they should not see you, send them out all news and directions, that they may be guided by them. There are about three hundred blacks at this place, and a few of our bluff people; they beg me to say they depend on your promises, and expect you are on the way out; they have stuck to the cause, and will always believe in the faith of you, and any directions you may give. Send to me at this place, and I will do what I can.

I remain, my dear sir, most truly yours,

ROBERT C. AMBRISTER.

N. B. Francis says you must bring the horses when you come out that you promised, and that his house has been burnt down, and with it his uniform clothes.

R. C. A.

C.

*Robert C. Ambrister to Governor Cameron.*

MARCH 20, 1818.

SIR: I am requested particularly by the Indian chiefs to acquaint your excellency that the Americans have commenced hostilities with them a long time since, and have advanced some distance in their territory, and are still continuing to advance; that they, the chiefs of Florida, have sent repeatedly to your excellency, and have never received one answer; they suspect Mr. Arbuthnot has never delivered the papers to your excel-

lency; they wish me to state to you that they are completely out of ammunition, muskets, &c., begging your excellency will be pleased to send them the articles above-mentioned, with a few cannon, as the Americans build their boats so strong that their rifle balls cannot penetrate their sides. To the captain of the vessel, who will come down again, I have given an order to make your excellency acquainted with what time the vessel will sail for this place. Your excellency will, I hope, be good enough to make the Prince Regent acquainted with their situation, and ask for assistance, which they have pressed me very hard to press on your excellency's mind, and likewise to send them down what news may be respecting them and the country, which will be a great satisfaction to them.

I have the honor to be, sir, with due respect, your most obedient, humble servant,

ROBERT C. AMBRISTER.

N. B.—They beg your excellency will be as expeditious as possible. Your excellency is the only dependence they have, and who the Prince Regent told them would give them every assistance that lay in your power.

R. C. A.

His Excellency Governor CAMERON, &c.

D.

*Robert C. Ambrister to Governor Cameron.*

SUWANEE, NEAR FORT ST. MARK'S,

March 20, 1818.

SIR: I am requested by Francis, and all the Indian chiefs, to acquaint your excellency that they are at war with the Americans, and have been some time back; that they are in great distress, for the want of ammunition, balls, arms, &c., and have written by Mr. Arbuthnot several times, but they suppose he never delivered them to your excellency. You will oblige them much to let them know whether he did or not. I expect the Americans and Indians will attack us daily. I have sent a party of men to oppose them.

They beg me to press on your excellency's mind to lay the situation of the country before the Prince Regent, and ask for assistance. All news respecting them your excellency will do a favor to let me know by the first opportunity, that I may make them acquainted. I have given directions to the captain to let your excellency know when the vessel will sail for this place.

I hope your excellency will be pleased to send them the ammunition. I expect, if they don't procure some very shortly, that the Americans will march through the country. I have nothing further to add, but am, dear sir, your most obedient, humble servant,

ROBERT C. AMBRISTER.

His Excellency Governor CAMERON.

E.

*Robert C. Ambrister to Peter B. Cook.*

MOUTH OF THE RIVER,

Tuesday, 3 o'clock.

DEAR COOK: The boat arrived here about

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three o'clock on Thursday. The wind has been ahead ever since I have been down; the rudder of the vessel is in a bad condition, but I will manage to have it done to-night. The wind, I am in hopes, will be fair in the morning, when I will get under way, and make all possible despatch. I will make old Lewis pilot me safe. If those Indians do not conduct themselves strait, I would use rigorous measures with them. Beware of Mr. Jerry; I found him on board when I came; keep a good look out. I have sent two kegs of powder, and a bar of lead.

Yours, &c.

R. C. A.

M.

### DEFENCE.

FORT ST. MARK'S, April 28, 1818.

The United States of America vs. Robert Christie Ambrister.

Who being arraigned before a special court-martial upon the following charges, to wit:

CHARGE 1. Aiding, abetting, and comforting the enemy, supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

CHARGE 2. Leading and commanding the Lower Creek Indians in carrying on war against the United States.

To the first charge, the prisoner at the bar pleaded not guilty; and as to the second charge, he pleaded guilty, and justification. The prisoner at the bar feels grateful to this honorable court for their goodness in giving a sufficiency of time to deliberate and arrange his defence on the above charges.

The prisoner at the bar here avails himself of the opportunity of stating to this court, that, inasmuch as the testimony which was introduced in this case was very explicit, and went to every point the prisoner could possibly wish, he has nothing further to offer in his defence, but puts himself upon the mercy of this honorable court.

ROBERT C. AMBRISTER.

HEADQUARTERS, DIVISION OF THE SOUTH,  
ADJUTANT GENERAL'S OFFICE,  
Camp four miles north of St.  
Mark's, April 29, 1818.

### GENERAL ORDERS.

At a special court-martial, commenced on the 26th instant, at St. Mark's, and continued until the night of the 28th, of which Brevet Major General E. P. Gaines is president, was tried A. Arbuthnot, on the following charges and specifications, viz:

CHARGE 1. Exciting and stirring up the Creek Indians to war against the United States and her citizens, he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

CHARGE 2. Acting as a spy, aiding, abetting, and comforting the enemy, and supplying them with the means of war.

CHARGE 3. Exciting the Indians to murder and

destroy William Hambly and Edmund Doyle, confiscate their property, and causing their arrest, with a view to their condemnation to death, and the seizure of their property, they being citizens of Spain, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians.

To which charges the prisoner pleaded *not guilty*.

The court, after mature deliberation on the evidence adduced, find the prisoner, A. Arbuthnot, guilty of the first charge, and guilty of the second charge, leaving out the words "acting as a spy;" and, after mature reflection, sentence him, A. Arbuthnot, to be suspended by the neck until he is dead.

Was also tried Robert C. Ambrister, on the following charges, viz:

CHARGE 1. Aiding, abetting, and comforting the enemy, and supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and late an officer of the British colonial marines.

CHARGE 2. Leading and commanding the Lower Creek Indians in carrying on war against the United States.

To which charges the prisoner pleaded as follows, viz:

To the first charge, not guilty. To the second charge, guilty, and justification.

The court, on examination of the evidence, and on mature deliberation, find the prisoner, Robert C. Ambrister, guilty of the first and second charges, and do, therefore, sentence him to suffer death, by being shot. One of the members requesting a reconsideration of the vote on this sentence, and it being had, they sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The commanding General approves the finding and sentence of the court in the case of A. Arbuthnot; and approves the finding and first sentence of the court in the case of Robert C. Ambrister; and disapproves the reconsideration of the sentence of the honorable court in his case; it appearing, from the evidence and pleading of the prisoner, that he did lead and command within the territory of Spain (being a subject of Great Britain) the Indians in war against the United States, these nations being at peace. It is an established principle of the law of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and pirate. This is the case of Robert C. Ambrister, clearly shown by the evidence adduced.

The commanding General orders that Brevet Major A. C. W. Fanning, of the corps of artillery, will have, between the hours of 8 and 9 o'clock a. m., A. Arbuthnot suspended by the neck with a rope until he is dead; and Robert C. Ambrister to be shot to death, agreeably to the sentence of the court.

John James Arbuthnot will be furnished with a passage to Pensacola by the first vessel.

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Captain R. K. Call, of the first regiment of infantry, is appointed volunteer aid-de-camp to the commanding General, until further orders.

The special court, of which Brevet Major General E. P. Gaines is president, is dissolved.

By order of Major General A. JACKSON :

ROBERT BUTLER, *Adj't General.*

No. 50.

[Extracts from Message of 25th March, 1818.]

*Extract of a letter from the Governor of Georgia to General Gaines, dated*

MILLEDGEVILLE, February 5, 1817.

You no doubt have already been informed that the notorious Woodbine has recently made his appearance again, at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostility against this country; and that Woodbine himself has gone, in an armed vessel, to some part of the West Indies for supplies. Connected with this fact is another, which may serve as an intimation of the future conduct of these people, when once in the possession of the supplies which it is said they expect on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered the frontier of Wayne county, and stole two horses and some cattle; they were pursued by some of the inhabitants, who peaceably demanded a restoration of the stolen property; and, instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without returning a shot. One of the whites was mortally wounded.

*Extract of a letter from George Perryman to Lieutenant Sands, dated*

FEBRUARY 24, 1817.

The charge given me by Colonel Clinch and yourself, and other officers of the United States, induces me to believe there is a confidence placed in me which I ought not to deceive; I therefore think it my duty as well as my inclination to give you the following information: There was a friend of mine, not long since, in the Fowl Town on Flint, and he saw many horses, cattle, and hogs, that had come immediately from the State of Georgia; and they are bringing them away continually. They speak in the most contemptuous manner of the Americans, and threaten to have satisfaction for what has been done—meaning the destruction of the Negro fort. There is another of my acquaintances returned immediately from the Seminole towns, and saw the negroes on parade there; he counted about six hundred that bore arms; they have chosen officers of every description, and endeavor to keep up a regular discipline, and are very strict in punishing violators of their military rules. There is said to be about the same number of Indians belonging to their party, and there are both negroes and Indians daily going to their standard. They say they are in complete fix for fighting,

and wish for an engagement with the Americans, or McIntosh's troops; they would let them know they had something more to do than they had at Appalachicola. They have chosen Bowlegs for their head, and nominated him King, and pay him all kind of monarchical respect, almost to idolatry, keeping a picket guard at the distance of five miles. They have a number of the likeliest American horses. But there are one or two chiefs that are not of the choir; Kenhagee, the Mickasuky chief, is one that is an exception.

*Extract of a letter from Archibald Clarke, Intendant of St. Mary's Georgia, to General Gaines, dated*

FEBRUARY 26, 1817.

On the 25th instant the house of Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, was attacked during his absence, near the middle of the day, by this party, consisting of about fifteen, who shot Mrs. Garret in two places, and despatched her by stabbing and scalping. Her two children, one about three years, the other two months, were also murdered, and the eldest scalped; the house was then plundered of every article of value, and set on fire.

*Extract of a letter from Richard M. Sands, 4th infantry, commanding at Fort Gaines, Georgia, to Colonel William King, or officer commanding the 4th regiment of infantry, dated*

MARCH 15, 1817.

I enclose, for your information, two letters which I received a few days since. Yesterday William Perryman, accompanied by two of the Lower chiefs, arrived here; he informs me that McQueen, the chief mentioned in one of the enclosed letters, is at present one of the heads of the hostilities; that they are anxious for war, and have lately murdered a woman and two children. He likewise says that he expects the news in George Perryman's letter is true, for there are talks going through the towns that the English are to be at Ochlochnee river in three months.

*Extract of a letter from David B. Mitchell, Indian agent, to the Secretary of War, dated*

MILLEDGEVILLE, GEORGIA.

March 30, 1817.

By yesterday's mail I received a letter from Mr. Timothy Barnard, who resides at Flint river, in the Indian country, a considerable distance below the agency, in which he observes: "I have been informed two days past, from below, where the Red Stick class reside, that a party has been down near St. Mary's, and murdered a woman and two children, and brought off some horses." "I will further state that I have received information from other persons at and near Fort Gaines, that a British agent is now among these hostile Indians, and that he has been sending insolent messages to the friendly Indians and white men settled above the Spanish line; he is



*Relations with Spain.*

also charged with stimulating the Indians to their present hostile aspect; but whether he is an acknowledged agent of any foreign Power, or a mere adventurer, I do not pretend to determine, but am disposed to believe him the latter."

*Extract of a letter from General Gaines to the Secretary of War, dated*

CAMP MONTGOMERY, M. T.,  
April 3, 1817.

I received by the last mail a letter from Archibald Clarke, Esq., Intendant of the town of St. Marys, by which it appears that another outrage, of uncommon cruelty, has recently been perpetrated by a party of Indians upon the Southern frontier, near the boundary of Wayne county. They have massacred a woman, (Mrs. Garret,) and two of her children; the mother and eldest child were scalped; the house plundered and burnt.

*Extract of a letter from A. Culloh to General Gaines, written at Fort Gaines.*

We are hourly told by every source of information, by the friendly Indians, by letters from William Hambly and Edmund Doyle, who reside low down on the Appalachicola, that all the lower tribes of Indians have imbodied, and are drying their meats to come on to the attack of this post. The British agent at Ochlochnee Sound is giving presents to the Indians. We have among us Indians who have been down and received powder, lead, tomahawks, knives and a drum for each town, with the royal coat of arms painted on it. We have at this time at least five hundred Indians skulking in this neighborhood, within three or four miles of us, who will not act for themselves, and who are evidently waiting for the signal to strike an effectual blow. They have stolen almost every horse belonging to the citizens. They have scared them from the fields which they have cleared, and have taken possession of their houses. They are now stealing horses, cattle, and hogs, from the Georgia lines, and have killed one or two families on the Satilla.

*Extract of a letter from General Gaines to Major General Andrew Jackson, dated*

FORT SCOTT, GEORGIA,  
November 21, 1817.

The first brigade arrived at this place on the 19th instant. I had previously sent an Indian runner, to notify the first town chief, E-me-hemant-by, of my arrival, and, with a view to ascertain whether his hostile temper had abated, requesting him to visit me. He replied that he had already said to the commanding officer here all he had to say, and he would not come.

Among the articles found in the house of the chief was a British uniform coat (scarlet) with a pair of gold epaulets, and a certificate signed by a British captain of marines, "Robert White, in the absence of Colonel Nicholls," stating that the

chief had always been a true and faithful friend to the British.

The reports of friendly Indians concur in estimating the number of hostile warriors, including the Red Sticks and Seminoles, at more than two thousand, besides the blacks, amounting to near four hundred men, and increasing by runaways from Georgia. They have been promised, as several Indians inform me, assistance from the English at New Providence. This promise, though made by Woodbine, is relied on by most of the Seminole Indians. I have not a doubt but they will sue for peace as soon as they find their hopes of British aid to be without a foundation.

No. 51. a.

*General Gaines to the Secretary of War—with a talk.*

HEADQ'RS, FORT SCOTT, GEORGIA,  
December 2, 1817.

SIR: I had the honor to receive, on the 26th ultimo, your communication of the 30th October.

I am very happy to find that the President approves of my movement, but I much regret that his just expectations as to the effect there was reason to believe would be produced on the minds of the Indians by this movement have not been realized. I am now quite convinced that the hostility of these Indians is, and has long since been, of so deep a character as to leave no ground to calculate upon tranquillity, or the future security of our frontier settlements, until the towns south and east of this place shall receive a signal proof of our willingness to retaliate for every outrage. It is now my painful duty to report an affair of a more serious and decisive nature than has heretofore occurred, and which leaves no doubt of the necessity of an immediate application of force, and active measures on our part. A large party of Seminole Indians on the 30th ultimo formed an ambuscade upon the Appalachicola river, a mile below the junction of the Flint and Chatahoochee, attacked one of our boats ascending near the shore, and killed, wounded, and took the greater part of the detachment, consisting of forty men, commanded by Lieutenant R. W. Scott, of the 7th infantry. There were also on board, killed or taken, seven women, the wives of soldiers. Six men of the detachment only escaped, four of whom were wounded. They report that the strength of the current at the point of attack had obliged the lieutenant to keep his boat near the shore; that the Indians had formed along the banks of the river, and were not discovered till their fire had commenced, in the first volley of which Lieutenant Scott and his most valuable men fell.

The lieutenant and his party had been sent from this place some days before to assist Major Muhlenberg in ascending the river with three vessels laden with military stores brought from Montgomery and Mobile. The Major, instead of retaining the party to assist him, as I had advised, (see enclosure No. 2,) retained only about twenty men, and in their place put a like number of sick, with the women, and some regimental clothing. The boat, thus laden, was detached

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alone for this place. It is due to Major Muhlenberg to observe that, at the time he detached the boat, I have reason to believe he was not apprized of any recent hostilities having taken place in this quarter. It appears, however, from Lieutenant Scott's letter, received about the hour in which he was attacked, (see enclosure No. 3,) that he had been warned of the danger. Upon the receipt of this letter, I had two boats fitted up with covers and port-holes for defence, and detached Captain Clinch with an officer and forty men, with an order to secure the movement of Lieutenant Scott, and then to assist Major Muhlenberg.

This detachment embarked on the evening of the 30th, and must have passed the scene of action below at night, and some hours after the affair terminated. I have not yet heard from Captain Clinch. I shall immediately strengthen the detachment under Major Muhlenberg with another boat, secured against the enemy's fire. He will, therefore, move up with safety, keeping near the middle of the river. I shall moreover, take a position with my principal force at the junction of the river, near the line; and shall attack any vessel that may attempt to intercept our vessel and supplies below, as I feel persuaded the order of the President, prohibiting an attack upon the Indians below the line, has reference only to the past, and not to the present or future outrages, such as the one just now perpetrated, and such as shall place our troops strictly within the pale of natural law, where self-defence is sanctioned by the privilege of self-preservation. The wounded men who made their escape concur in the opinion that they had seen upwards of five hundred hostile Indian warriors at different places below the point of attack. Of the force engaged they differ in opinion; but all agree that the number was very considerable, extending about one hundred and fifty yards along the shore, in the edge of a swamp or thick woods. I am assured by the friendly chief that the hostile warriors of every town upon the Chatahoochee prepared canoes and pushed off down the river to join the Seminoles as soon as the account of my movement from the Alabama reached them.

The Indians now remaining upon the Chatahoochee, I have reason to believe, are well disposed. One of the new settlers, however, has recently been killed; but it has been clearly proved that the murderer had belonged to the hostile party. The friendly chiefs in the neighborhood, when apprized of the murder assembled a party, and sent in pursuit of the offender, and followed him to the Flint river, on the route to Mickasuky, whither he escaped. Onishajo and several other friendly chiefs, have offered me their services, with their warriors, to go against the Seminoles. I have promised to give them notice of the time that may be fixed for my departure, and then to accept their services. The enclosure No. 1 contains the substance of what I have said to the chiefs who have visited me; several of whom reside south of the Spanish line, and west of Appalachianola river. It was expected by the

chiefs that I should communicate to them my views and wishes. I felt authorized to say but little, and I deemed it necessary, in what I should say, to endeavor to counteract the erroneous impressions by which they have been misled by pretended British agents.

I hope the President will see in what I have said nothing to disapprove. I feel persuaded a report of the various talks which I received from the chiefs would show the propriety of what I have said to them; such a report I have not a moment's time now to make. The Indians are at this moment firing at our camp from the opposite side of the river.

I have the honor to be, most respectfully, your obedient servant,

EDMUND P. GAINES,  
*Major General commanding.*

Talk enclosed in 51 a, (No. 1.)

CHIEFS AND WARRIORS: The President of the United States has been informed of the murders and thefts committed by hostile Indians in this part of the country. He has authorized General Jackson to arrest the offenders, and cause justice to be done. The Indians have been required to deliver up the murderers of our citizens and the stolen property, but they refused to deliver either. They have had a council at Mickasuky, in which they have determined upon war; they have been at war against helpless women and children; let them now calculate upon fighting men. We have long known that we had enemies east of this river; we likewise know we have some friends, but they are so mixed together we cannot always distinguish the one from the other. The President, wishing to do justice to his red friends and children, has given orders for the bad to be separated from the good. Those who have taken up arms against him, and such as have listened to the bad talks of the people beyond the sea, must go to Mickasuky, Suwanee, where we wish to find them together. But all those who were our friends in the war will sit still at their homes in peace. We will pay them for what corn and meat they have to sell us. We will be their friends, and when they are hungry we will give them meat. The hostile party pretend to calculate upon help from the British—as well look for soldiers from the moon to help them. Their warriors were beaten and driven from our country by American troops. The English are not able to help themselves; how, then, should they help the old "Red Sticks," whom they have ruined by pretended friendship?

No. 51 b, (No. 2.)

*General Gaines to Major Muhlenberg.*

FORT SCOTT, November, 1817.

SIR: The waters having risen sufficiently high to enable you to ascend the river with all the vessels, I wish you to do so, though it should take longer than I had anticipated. You can avail yourself of the aid of Lieutenant Scott's detachment to expedite your movement hither. Keep

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your vessels near to each other; and, should you meet any insuperable obstacle, endeavor to appropriate me thereof, and you shall have additional relief. Wishing to see you soon, with your fleet, I remain, with great regard, your obedient servant,  
E. P. GAINES.

To Major MUHLENBERG,  
*Commanding United States troops.*

No. 51 c, (No. 3.)

*Lieutenant Scott to General Gaines.*

SPANISH BLUFF, November 28, 1817.

SIR: Enclosed you will receive Major Muhlenberg's communication, which he directs me to forward to you by express from this place. Mr. Hambly informs me that Indians are assembling at the junction of the river, where they intend to make a stand against those vessels coming up the river. Should this be the case, I am not able to make a stand against them. My command does not exceed forty men, and one half sick and without arms. I leave this immediately.

I am, respectfully, your obedient servant,

R. W. SCOTT,

*Lieut. 7th Infantry, com'g detachment.*

NOTE.—The bearer of this is entitled to three dollars on delivering this letter. The Indians have a report here that the Indians have beaten the white people.

No. 51 d.

*General Gaines to Captain Clinch.*

HEADQUARTERS. FORT SCOTT,  
November 30, 1817.

SIR: You will embark with the party assigned you on board the covered boats; descend the river until you meet with Lieutenant Scott; deliver to him a cover for his boat, and give him such assistance as, in your judgment, shall be necessary to secure his party, and expedite his movement to this place. You will then proceed, with the residue of your command, down the river, until you meet with Major Muhlenberg; report to him, and act under his orders. You will, in no case, put your command in the power of the Indians near the shore. Be constantly on the alert. Remember that United States troops can never be surprised by Indians without a loss of honor, to say nothing of the loss of strength that might ensue.

To Col. CLINCH, 7th Infantry.

No. 52.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Bowlegs's Town, Suwanee river,*  
April 20, 1818.

SIR: My last communication, dated Camp before St. Mark's, 8th April, and those to which it referred, advised you of my movements and operations up to that date, and, as I then advised you, I marched from that place on the morning

of the 9th. On the evening of the 10th I was joined by the rear of the Tennessee volunteers, also by the Indians under General McIntosh, whom I had left at Mickasuky to scour the country around that place. Although the weather has been dry and pleasant, and the waters had subsided in a great degree, our march might be said to have been through water, which kept the infantry wet to the middle; and the depth of the swamps, added to the want of forage, occasioned the horses to give out daily in great numbers. On the morning of the 12th, near Econfinnah, or Natural Bridge, a party of Indians were discovered on the margin of a swamp, and attacked by General McIntosh and about fifty Tennessee volunteers, who routed them, killing thirty-seven warriors, and capturing six men and ninety-seven women and children; also recapturing a white woman who had been taken at the massacre of Scott. The friendly Indians also took some horses and about five hundred head of cattle from the enemy, who proved to be McQueen's party. Upon the application of an old woman of the prisoners, I agreed that if McQueen was tied and carried to the commandant of St. Mark's, her people should be received in peace, carried to the upper tribes of the Creek nation, and there provisioned until they could raise their own crops. She appeared much pleased with those terms, and I set her at liberty, with written instructions to the commandant of St. Mark's to that effect. Having received no further intelligence from McQueen, I am induced to believe the old woman has complied with her part of the obligation.

From St. Mark's I marched with eight days' rations, those that joined me having but five; this was done under the expectation of reaching this place in that time, founded on the report of my faithful Indian guide, which I should have accomplished but for the poverty of my horses and the continued sheets of water through which we had to pass. On the morning of the 15th my scouts overtook a small party of Indians, killing one man and capturing the residue, consisting of one man and woman and two children, and on that evening I encamped, as my guide supposed, within twelve miles of Suwanee. I marched very early on the 16th, under the hope of being able to encompass and attack the Indian and negro towns by one o'clock, P. M., but, much to my regret, at three o'clock, and after marching sixteen miles, we reached a remarkable pond, which my guide recollected, and reported to be distant six miles from the object of my march; here I should have halted for the night, had not six mounted Indians, (supposed to be spies,) who were discovered, effected their escape: this determined me to attempt, by a forced movement, to prevent the removal of their effects, and, if possible, themselves from crossing the river, for my rations being out, it was all-important to secure their supplies for the subsistence of my troops. Accordingly, my lines of attack were instantly formed and put in motion, and about sunset my left flank column, composed

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of the second regiment of Tennessee volunteers, commanded by Colonel Williamson, and a part of the friendly Indians, under Colonel Kanard, having approached the left flank of the centre town and commenced their attack, caused me to quicken the pace of the centre, composed of the regulars, Georgia militia, and my volunteer Kentucky and Tennessee guards, in order to press the enemy in his centre, while the right column, composed of the first regiment of Tennessee volunteers, under Colonel Dyer, and a part of the friendly Indians, headed by General McIntosh, who had preceded me, were endeavoring to turn his left and cut off his retreat to the river; they, however, having been previously informed of our force, by a precipitate retreat soon crossed the river, where, it is believed, Colonel Kanard, with his Indians, did them considerable injury. Nine negroes and two Indians were found dead, and two negro men made prisoners.

On the 17th foraging parties were sent out, who found a considerable quantity of corn and some cattle. The 18th, having obtained some small craft, I ordered General Gaines across the river with a strong detachment and two days' provision to pursue the enemy. The precipitancy of their flight was soon discovered by the great quantity of goods, corn, &c., strewed through the swamps, and convinced General Gaines that pursuit was in vain. Nine Indians and five negro prisoners were taken by our Indians. The evidence of haste with which the enemy had fled induced the General to confine his reconnoissance to search for cattle and horses, both of which were much wanted by the army. About thirty head of cattle were procured; but, from the reports accompanying General Gaines's, which will in due time be forwarded to you, and the disobedience of his orders by the Indians, not one pound was brought into camp.

As soon as time will permit, I shall forward a detailed account of the various little affairs with the enemy, accompanied with reports of the commanding officers of the detachment. Suffice it for the present to add, that every officer and soldier under my command, when danger appeared, showed a steady firmness, which convinced me that, in the event of a stubborn conflict, they would have realized the best hopes of their country and General.

I believe I may say that the destruction of this place, with the possession of St. Mark's, having, on the night of the 18th, captured the late Lieutenant Ambrister, of the British marine corps, and, as represented by Arbuthnot, successor to Woodbine, will end the Indian war for the present; and, should it be renewed, the position taken, which ought to be held, will enable a small party to put it down promptly.

I shall order, or take myself, a reconnoissance west of the Appalachicola at Pensacola point, where, I am informed, there are a few Red Sticks assembled, who are fed and supported by the Governor of Pensacola. My health being impaired, as soon as this duty is performed, the positions taken, well garrisoned, and security given to the

southern frontiers, (if the Government have not active employment for me,) I shall return to Nashville to regain my health. The health of the troops is much impaired, and I have ordered the Georgia troops to Hartford to be mustered, paid, and discharged; the General having communicated his wishes, and that of his troops, to be ordered directly there, and reporting that they have a plenty of corn and beef to subsist them to that point. I have written to the Governor of Georgia to obtain from the State the necessary funds to pay General Glascock's brigade when discharged, and that the Government will promptly refund it. I am compelled to this mode to have them promptly paid, Mr. Hogan, the paymaster of the seventh infantry, (for whom I received from Mr. Brent an enclosure said to contain \$50,000,) not having reached me.

From the information received from Ambrister and a Mr. Cook, who was captured with him, that A. Arbuthnot's schooner was at the mouth of this river, preparing to sail for the bay of Tampa, my aid-de-camp, Lieutenant Gadsden, volunteered his services with a small detachment to descend the river and capture her. The importance of this vessel to transport my sick to St. Mark's, as well as to destroy the means used by the enemy, induced me to grant his request; he sailed yesterday, and I expected to have heard from him this morning. I only await his report to take up the line of march on my return for St. Mark's. The Georgia brigade, by whom I send this, being about to march, compels me to close it without the report of Lieutenant Gadsden.

I have the honor to be, &c.,

ANDREW JACKSON.

*Major General commanding.*

HON. JOHN C. CALHOUN,  
*Department of War.*

No. 53.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort St. Marks, April 26, 1818.*

SIR: I wrote you from Bowlegs' Town on the 20th instant. On the night of the same day I received the expected despatch from my aid-de-camp, Lieutenant Gadsden, communicating the success of his expedition: and, on the next day, as soon as the sick of my army were despatched down the Suwanee river, to be conveyed in the captured schooner to St. Mark's, I took up the line of march for that fort. I arrived at this place last evening, performing a march of one hundred and seven miles in less than five days. Lieutenant Gadsden had reached it a few hours before me. He communicates having found, among the papers of Arbuthnot, Ambrister, and Cook, letters, memorials, &c., all pointing out the instigators of this savage war, and, in some measure, involving the British Government in the agency. These will be forwarded you in a detailed report I purpose communicating to you as early as practicable.

The old woman spoken of in my last commu-

*Relations with Spain.*

nication to you, who promised to use her influence in having McQueen captured and delivered up, has not been heard of. From signs discovered on the opposite shore of the St. Mark's river, I am induced to believe that the Indian party is still in this neighborhood. A detachment will be sent out to reconnoitre the country, to receive them as friends if disposed to surrender, or inflict merited chastisement if still hostile.

I shall leave this in two or three days for Fort Gadsden, and, after making all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Appalachicola, I shall proceed direct for Nashville. My presence in this country can no longer be necessary. The Indian forces have been divided and scattered, cut off from all communication with those unprincipled agents of foreign nations who had deluded them to their ruin; they have not the power, if the will remains, of again annoying our frontier.

I remain, &c.

ANDREW JACKSON.

No. 54.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Gadsden, May 5, 1818.

SIR: I returned to this post with my army on the evening of the 2d instant, and embrace an early opportunity of furnishing you a detailed report of my operations to the east of the Appalachicola river. In the several communications addressed to you from Hartford, Fort Scott, and this place, I have stated the condition of the army on my assuming the immediate command, the embarrassment occasioned from the want of provisions, the privations of my troops on their march from the frontiers of Georgia, and the circumstances which compelled me to move directly down the Appalachicola river to meet with and protect the expected supplies from New Orleans. These were received on the 25th of March, and on the next day I was prepared for active operations. For a detailed account of my movements from that period to this day you are respectfully referred to the report prepared by my adjutant general, accompanied with Captain Hugh Young's topographical sketch of the route and distance performed. This has been principally a war of movements. The enemy, cut off from their strongholds, or deceived in the promised foreign aid, have uniformly avoided a general engagement. Their resistance has generally been feeble; and in the partial rencontres into which they seem to have been involuntarily forced, the regulars, volunteers, and militia, under my command, realized my expectations; every privation, fatigue, and exposure was encountered with the spirit of soldiers, and danger was met with a degree of fortitude calculated to strengthen the confidence I had reposed in them.

On the commencement of my operations, I was strongly impressed with a belief that this Indian war has been excited by some unprincipled

foreign or private agents. The outlaws of the old Red Stick party had been too severely convinced, and the Seminoles were too weak in numbers to believe that they could possibly alone maintain a war with even partial success against the United States. Firmly convinced, therefore, that succor had been promised from some quarter, or that they had been deluded into a belief that America dare not violate the neutrality of Spain by penetrating to their towns, I early determined to ascertain these facts, and so direct my movements as to undeceive the Indians. After the destruction of the Mickasukian villages, I marched for St. Mark's. The correspondence between myself and the Spanish commandant, in which I demanded the occupancy of that fortress with an American garrison, accompanies this. It had been reported to me, direct from the Governor of Pensacola, that the Indians and negroes unfriendly to the United States had demanded of the commandant of St. Mark's a supply of ammunition, munitions of war, &c., threatening, in the event of a noncompliance, to take possession of the fort. The Spanish commandant acknowledged the defenceless state of his fortress, and his inability to defend it; and the Governor of Pensacola expressed similar apprehensions. The Spanish agents throughout the Floridas had uniformly disavowed having any connexion with the Indians, and acknowledged the obligations of His Catholic Majesty, under existing treaties, to restrain their outrages against the citizens of the United States. Indeed, they declared that the Seminole Indians were viewed as alike hostile to the Spanish Government, and that the will remained, though the power was wanting, to inflict merited chastisement on this lawless tribe. It was, therefore, to be supposed that the American army, impelled by the immutable laws of self-defence to penetrate the territory of His Catholic Majesty, to fight his battles, and even to relieve from a cruel bondage some of his own subjects, would have been received as allies, hailed as deliverers, and every facility afforded to them to terminate speedily and successfully this savage war. Fort St. Mark's could not be maintained by the Spanish force garrisoning it. The Indians and negroes viewed it as an asylum, if driven from their towns, and were preparing to occupy it in this event. It was necessary to anticipate their movements, independent of the position being deemed essential as a depot, on which the success of my future operations measurably depended. In the spirit of friendship, therefore, I demanded its surrender to the army of the United States until the close of the Seminole war. The Spanish commandant required time to reflect. It was granted. A negotiation ensued, and an effort was made to protract it to an unreasonable length. In the conversations between my aide-de-camp, Lieutenant Gadsden, and the Spanish commandant, circumstances transpired convicting him of a disposition to favor the Indians, and of having taken an active part in aiding and abetting them in this war. I hesitated, therefore, no longer; and as I could not be received

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in friendship, I entered the fort by violence. Two light companies of the 7th regiment of infantry, and one of the 4th, under the command of Major Twiggs, were ordered to advance, lower the Spanish colors, and hoist the star-spangled banner on the ramparts of Fort St. Mark's. The order was executed promptly. No resistance was attempted on the part of the Spanish garrison. The duplicity of the Spanish commandant of St. Mark's, in professing friendship towards the United States while he was actually aiding and supplying her savage enemies, throwing open the gates of his garrison to their free access, appropriating the King's stores to their use, issuing ammunition and munitions of war to them, and knowingly purchasing of them property plundered from the citizens of the United States, is clearly evinced by the documents accompanying my correspondence. In Fort St. Mark's, as an inmate of the family of the Spanish commandant, an Englishman, by the name of Arbuthnot, was found. Unable satisfactorily to explain the objects of his visiting this country, and there being a combination of circumstances to justify a suspicion that his views were not honest, he was ordered into close confinement. The capture of his schooner, near the mouth of Suwanee river, by my aid-de-camp, Mr. Gadsden, and the papers found on board, unveiled his corrupt transactions, as well as those of a Captain Ambrister, late of the British colonial marine corps, taken as a prisoner near Bowlegs' town. Those individuals were tried, under my orders, by a special court of select officers, legally convicted as excitors of this savage and negro war, legally condemned, and most justly punished for their iniquities. The proceedings of the court-martial in this case, with the volume of testimony justifying their condemnation, present scenes of wickedness, corruption and barbarity, at which the heart sickens, and in which, in this enlightened age, it ought not scarcely to be believed that a Christian nation would have participated; and yet the British Government is involved in the agency. If Arbuthnot and Ambrister are not convicted as the authorized agents of Great Britain, there is no room to doubt but that that Government had a knowledge of their assumed character, and was well advised of the measures which they had adopted to excite the negroes and Indians in East Florida to war against the United States. I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain (if slow) retribution awaits these unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war.

Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola on the subject of permitting supplies to pass up the Escambia river to Fort Crawford. This letter, with a second from St. Mark's, on the subject of some United

States' clothing, shipped in a vessel in the employ of the Spanish Government, to that post, I now enclose, with his reply. The Governor of Pensacola's refusal of my demand cannot but be viewed as evincing a hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated that the Indians at war with the United States have free access into Pensacola; that they are kept advised from that quarter of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in large bodies, to the amount of four or five hundred warriors, in that city; that inroads from thence have lately been made on the Alabama, in one of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola; and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Fort St. Mark's, Fort Gadsden, and Fort Scott; and in Pensacola, should it become necessary to possess it.

It becomes my duty to state it as my confirmed opinion that, so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the seashore. The moment the American army returns from Florida, the war hatchet will be again raised, and the same scenes of indiscriminate murder with which our frontier settlers have been visited will be repeated. So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of foreign intrigue; so long as they can receive ammunition, munitions of war, &c., from pretended traders, or Spanish commandants, it will be impossible to restrain their outrages. The burning of their tow s, the destroying of their stock and provisions, will produce but temporary embarrassments; resupplied by Spanish authorities, they may concentrate or disperse at will, and keep up a lasting predatory warfare against the frontiers of the United States, as expensive as harassing to her troops. The savages, therefore, must be made dependant on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence.

I trust, therefore, that the measures which have been pursued will meet the approbation of the President of the United States. They have been adopted in pursuance of your instructions, under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia."

The army will move on the 7th from hence, crossing the Appalachicola river at the Ochese bluff, about thirty miles above.

ANDREW JACKSON.

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No. 55.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,

Fort Montgomery, June 2, 1818,

SIR: In a communication to you of the 5th of May, I detailed at length the operations of my army up to that period. Leaving a strong garrison of regulars in Forts Scott and Gadsden, I resumed my march, with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding twelve hundred men, to fulfil my intentions, communicated to you, of scouring the country west of the Apalachicola river. On the 10th of May, my army crossed that river at the Ocheese village, and, after a fatiguing, tedious, and circuitous march of twelve days, misled by the ignorance of our pilots, and exposed to the severest of privations, we finally reached and effected a passage over the Escambia. On my march, on the 22d of May, a protest from the Governor of Pensacola was delivered me by a Spanish officer, remonstrating in warm terms against my proceedings, and ordering me and my forces instantly to quit the territory of His Catholic Majesty, with a threat to apply force in the event of a non-compliance. This was so open an indication of a hostile feeling on his part, after having been early and well advised of the object of my operations, that I hesitated no longer on the measures to be adopted. I marched for and entered Pensacola with only the show of resistance, on the 24th of May. The Governor had previously fled to Fort Carlos de Barancas, where, it was said, he had resolved upon a most desperate resistance. A correspondence ensued between us, (accompanying this, marked A,) detailing at length my motives for wishing and demanding that Pensacola and its dependencies be occupied with an American garrison. The package marked B are documents substantiating the charges, in part, against the conduct of the Spanish Governor, having knowingly and willingly admitted the savages, avowedly hostile to the United States, within the town of Pensacola.

The peaceable surrender of the fort of Barancas was denied. I marched for and invested it on the evening of the 25th of May, and on the same night pushed reconnoitering parties under its very guns. On the morning of the 26th, a military reconnaissance was taken; and on the same night, a lodgement was made, under a fire from the Spanish garrison, by Captain Gadsden of the engineers, aided by Captains Call and Young, on a commanding position, within three hundred and eighty-five yards of the Spanish works, and a nine-pounder mounted. A howitzer battery was simultaneously established on the capitol, and within seven hundred and sixty yards of the fort. At daylight on the 27th, the Spanish garrison opened their artillery on our batteries; a parley was sounded, a flag sent in,

and the surrender of Fort Carlos de Barancas again demanded; the favorable positions obtained were pointed out, and the inutility of resistance urged. Anxious to avoid an open contest, and to save the effusion of blood, the same terms previously offered were again tendered. These were rejected, and offensive operations recommenced. A spirited and well-directed fire was kept up the greater part of the morning, and at intervals during the afternoon. In the evening a flag was sent from the Spanish commandant, offering to capitulate, and a suspension of hostilities was granted until eight o'clock next day, when the enclosed articles of capitulation (marked C) were signed and agreed to. The terms are more favorable than a conquered enemy would have merited; but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those whose military pride or honor had prompted to the resistance made. The articles, with but one condition, amount to a complete cession to the United States of that portion of the Floridas hitherto under the government of Don Jose Mazot.

The arrangement which I have made to secure Pensacola and its dependencies are contained in the general orders, marked D. I deemed it most advisable to retain, for the present, the same government to which the people had been accustomed, until such time as the Executive of the United States may order otherwise. It was necessary, however, to establish the revenue laws of the United States, to check the smuggling which had been carried on successfully in this quarter for many years past, and to admit the American merchant to an equal participation in a trade which would have been denied under the partial operations of the Spanish commercial code.

Capt. Gadsden was appointed by me collector, and he has organized and left the department in the charge of officers on whom the greatest confidence may be reposed.

Though the Seminole Indians have been scattered, and literally so divided and reduced as no longer to be viewed as a formidable enemy, yet, as there are still many small marauding parties supposed to be concealed in the swamps of the Perdido, Choctawhatchy, and Chapouley who might make occasional and sudden incursions on our frontier settlers, massacring women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under Captains McGirt and Boyles, with instructions to scour the country between the Mobile and Apalachicola rivers, exterminating every hostile party who dare resist, or will not surrender and remove with their families above the thirty-first degree of latitude.

The Seminole war may now be considered as at a close, tranquillity again restored to the southern frontier of the United States; and, as long as a cordon of military posts is maintained along

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the Gulf of Mexico, America has nothing to apprehend from either foreign or Indian hostilities. Indeed, sir, to attempt to fortify or protect an imaginary line, or to suppose that a frontier on the thirty-first degree of latitude, in a wilderness, can be secured by a cordon of military posts while the Floridas lay open to an enemy, is visionary in the extreme.

Under this firm belief, I have bottomed all my operations. Spain had disregarded the treaties existing with the American Government, or had not power to enforce them; the Indian tribes within her territory, and which she was bound to keep at peace, had visited our citizens with all the horrors of savage war; negro brigands were establishing themselves when and where they pleased; and foreign agents were openly and knowingly practising their intrigues in this neutral territory.

The immutable principles, therefore, of self-defence justified the occupancy of the Floridas, and the same principles will warrant the American Government in holding it until such time as Spain can guaranty, by an adequate military force, the maintaining her authority within the colony.

A topographical sketch of the country from the Appalachicola to Pensacola accompanies this. Captain Young will prepare, as soon as practicable, a topographical memoir of that part of the Floridas in which my army has operated, with a map of the country.

Captain Gadsden is instructed to prepare a report on the necessary defences of the country, as far as the military reconnoissance he has taken will permit, accompanied with plans of existing works, what additions or improvements are necessary, and what new works should, in his opinion, be erected to give permanent security to this important territorial addition to our Republic.

As soon as this report is prepared, Captain Gadsden will receive orders to repair to Washington city with some other documents which I may wish to confide to his charge.

At the close of a campaign which has terminated so honorably and happily, it gives me pleasure to express my approbation generally of the officers and soldiers of every species of corps which I have had the honor to command. The patience with which they endured fatigue and submitted to privations, and the determination with which they encountered and vanquished every difficulty, are the strongest indication of the existence of that patriotic feeling which no circumstances can change, and of that irresistible ardor in the defence of their country which will prove her strength and bulwark under any exposure. I should do violence to my feelings if I did not particularly notice the exertions of my Quartermaster General, Colonel George Gibson, who, under the most embarrassing circumstances, relieved the necessities of my army, and to whose exertions I was indebted for the supplies received. His zeal and integrity in this campaign, as well as in the uniform discharge of his duties since

his connexion with my staff, merit the approbation and gratitude of his country.

With respect, your most obedient servant,  
**ANDREW JACKSON,**  
*Major-General Commanding.*  
 The Hon. J. C. CALHOUN,  
*Secretary of War.*

No. 56.

*Extract of a letter from Thomas Wayne, Esq., purser on board the United States brig Saranac, to Benjamin Homans, dated*

ST. MARY'S RIVER, Sept. 27, 1817.

"On our arrival here, we found General McGregor in command of Amelia Island. A few days afterwards he decamped, and embarked on board the privateer McGregor, formerly the San Josef."

"The noted Woodbine, of infamous memory, arrived here from Nassau, with a view, as was said, to join the patriots; but his friend McGregor having left the cause, he was disappointed, and embarked with McGregor, who sailed a few days since for Nassau, to commence some new expedition, which, it is generally supposed, will be to the bay of Espiritu Santo, or bay of Tampa, in latitude 28 degrees 18 minutes north, and longitude 76 degrees 30 minutes west. This is an extensive bay, and capable of admitting ships of any size, contiguous to which are the finest lands in Florida, which Woodbine pretends belong to him by virtue of a grant from the Indians. He says he has surveyed the whole of the Gulf of Mexico, and Tampa bay is the only place into which large ships can enter."

No. 57 a.

[Extracts from Message of 26th March, 1818.]

*Extracts of a letter to the Secretary of State, dated*  
 DECEMBER 24, 1817.

"My informants, I have no doubt, are possessed of as much information of the views and plans of McGregor and Woodbine as any person in the United States." "They sailed from Amelia in September, in company with a schooner belonging to Woodbine, he being on board. Some time after they had got to sea, General McGregor and family were put on board the schooner with Woodbine, and steered for New Providence."

"From what has been written, it may readily be supposed that my friends had an opportunity of learning something of the plan of the future operations of McGregor and Woodbine, and they believe it to be as follows: Woodbine persuaded McGregor that he could find friends and funds in New Providence, and that a British regiment had lately been disbanded there; that they would pick up as many of the soldiers as possible, and, with what negroes and others they could gather, would make a tolerable force. They were then to sail for Tampa bay, a fine harbor to the north-westward of Cape Florida, where they were to be joined by 1,500 Indians, already engaged to Woodbine, and invade Florida from that point; they were then to march across, and attack St. Augustine."



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## No. 57 b.

*Instructions for sailing in Tampa bay, in McGregor's handwriting.*

[Enclosed in letter of December 24, 1817.]

The vessels must be at Tampa bay, commonly called Espiritu Santo. I calculate to be at Tampa bay by the latter end of April, or 1st day of May, 1818. There are three bars: the northernmost bar is best, having five fathom water; keep on the larboard shore going in. There is a small sandy key between the northern and middle channels; upon this sandy key there will be a flag-staff, and, on hoisting your signal, you will be answered by the Florida flag, and a pilot will come off.

## No. 57 c.

*Extracts of a letter to a gentleman in the District of Columbia.*

BALTIMORE, July 30, 1817.

Allow me now to relate, in detail, the particulars of my intercourse with General McGregor whilst in this city, in regard to his objects. He declared his object to be, in the first place, to take possession of Amelia; thence to wrest the Floridas from Spain, when he should immediately call on the inhabitants, by proclamation, to designate some of their most respectable fellow-citizens to form a constitution on the model of some of the adjoining States; that, so far as it might depend on him, he would encourage the existing disposition of the people in that section to confederate with the United States; leaving it to the will and policy of this [our] Government, and to political circumstances, as they might arise, to indicate the most favorable time for their admission into the Union.

## No. 57 d.

*From G. McGregor to the writer of the above, dated*

NASSAU, December 27, 1817.

"You know my objects." "On the other side, you have the extract of a proclamation about to be published by the person in charge of making the settlement. I leave this to-day for England, to arrange my private affairs, which, from the many years that I have been in South America, have not improved by my absence; my family remain here until my return."

## No. 57 e.

*Extract from Proclamation.*

"Inhabitants of the Floridas! I expect soon to see General McGregor among you again. He was animated by a sincere wish for your happiness, and only desired to see you free from the yoke of Spain, in order that you might legislate for yourselves."

## No. 58.

*Extracts from the minutes of the proceedings of the court-martial in the trial of Ambrister.*

From the examination of JOHN LEWIS PHENIX, a witness on the part of the prosecution:

Question by the court. Did you ever under-

stand by whose authority, and for what purpose, the accused came into the country?

Answer. I have frequently heard him say he came to attend to Mr. Woodbine's business at the bay of Tampa.

From the examination of JOHN J. ARBUTHNOT, a witness on the part of the prosecution:

"And that the prisoner stated to him that he had come to the country on Woodbine's business to see the negroes righted."

Question by the prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did.

From the examination of PETER B. COOK, a witness on the part of the prosecution:

"The prisoner told the witness that he had been a lieutenant in the British Army, under Colonel Nicholls. The prisoner was sent by Woodbine to Tampa, to see about those negroes he had left there. The prisoner told the witness that he had written a letter to Governor Cameron for ammunition for the Indians, some time in March; and also told the witness that he had a commission in the patriot army under McGregor, and that he expected a captaincy."

## No. 59.

*Ambrister's memorial to the Duke of York.*

BAHAMA ISLAND:

To His Royal Highness Frederick, Duke of York, Commander-in-chief, &c., the memorial of Robert Christie Ambrister, of the Island of New Providence, gentleman, humbly sheweth:

That your memorialist, a British subject, and son of James Ambrister, Esq., lieutenant colonel, and commanding the militia of New Providence, having served for nearly four years past as midshipman in the British navy, on board His Majesty's ships Sparrow, Captain Edward Burt, Rhodan, Captain George Mowbray, Reindeer, Captain J. P. Douglass, and Bramble, Captain William P. Poyson; from which last-mentioned ship he obtained his discharge in England in 1813, and returned to the island of New Providence, where his friends reside; that Major Nicholls, of the royal marines, having shortly after arrived at the said island of New Providence, in His Majesty's ship Hermes, in company with His Majesty's ship Carron, for the purpose of raising recruits for a corps denominated the corps of colonial marines, destined to serve during the American war in such parts of the Indian territory bordering upon the United States of America, or in the States themselves, as circumstances should render it necessary, your memorialist applied for, and obtained, a commission of auxiliary second lieutenant in that regiment, which he immediately joined, and proceeded, under the command of the said Major Edward Nicholls, to Appalachicola, from whence he proceeded to the Creek nation, where he served until those forces were disbanded upon the termination of hostilities with the Americans, when he returned to the said island of New Providence.

And your memorialist further sheweth, that

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having been assured by the said Major Nicholls, at the time of his accepting the above-mentioned commission, (a copy of which he begs leave to annex,) that he had no doubt but he would be placed upon half-pay when his services were no longer required, your memorialist is desirous either of obtaining half-pay, or of being more actively employed, and of obtaining a commission either in one of His Majesty's West India regiments, or in such other of His Majesty's regiments as to your Royal Highness shall see fit.

Your memorialist, therefore, humbly prays your Royal Highness to take into your consideration this his memorial, and he shall ever pray.

ROBERT C. AMBRISTER.

No. 60.

*Ambrister's commission as auxiliary second lieutenant.*

By the honorable Sir Alexander Cochrane, Knight of the Bath, Vice Admiral of the Red, and Commander-in-chief of His Majesty's ships and vessels employed, and to be employed, on the North American station, &c., to Mr. Robert C. Ambrister, hereby appointed auxiliary second lieutenant of the corps of colonial marines to be raised upon the continent of North America:

Whereas I have thought fit to send a detachment of the royal marine corps to the Creek nations for the purpose of training to arms such Indians and others as may be friendly to, and willing to fight under the standard of His Majesty, I do, by these presents, constitute and appoint you an auxiliary second lieutenant of such corps of colonial marines as may be raised upon the continent of North America, to hold such local rank while actually employed upon the said continent, until further orders. You are therefore carefully and diligently to discharge the duty of auxiliary second lieutenant, by exercising and well-disciplining both the inferior officers and marines of the said corps; and I do hereby command them to obey you as their second auxiliary lieutenant. And you are to observe and follow such orders and directions from me, or any other of your superior officers, according to the rules and discipline of war, in pursuance of the trust hereby reposed in you.

Given under my hand and seal, at Bermuda, this 25th day of July, 1814, in the fifty fourth year of His Majesty's reign.

[L. s.] ALEXANDER COCHRANE.

By command of the Vice Admiral:

W. BALHETCHET, *Secretary.*

No. 61.

*P. B. Cook to Elizabeth A. Carney.*

*SUWANEE, January 19, 1818.*

MY DEAR AMELIA: I have embraced this opportunity of writing you, hoping to find you well, as it leaves me at present; and I am very sorry to inform you of the times at present. We are threatened every day by the d—d Americans; not threatened only, but they have made an at-

tempt, which we have stopped. On 1st December I marched with thirty men to go against them. After seven days' march we arrived at the fort; and, after our men got rested I went against it. We had an engagement for four hours, and seeing that we could do no good with them, we retreated and came off. The balls flew like hail stones; there was a ball that had like to have done my job; it just cleared my breast. For six days and six nights we had to encamp in the wild woods, and it was constantly raining night and day; and as for the cold, I suffered very much by it; in the morning the water would be frozen about an inch thick. There was a boat that was taken by the Indians which had in it thirty men, seven women, and four small children; there were six of the men who got clear, and one woman saved, and all the rest of them got killed; the children were taken by the heels, and their brains dashed out against the boat. We have got Mr. Hambly and Doyle prisoners, and we are going to send them to Nassau to stand their trial, as they have caused all this disturbance. Hambly told me that it was published in the American newspapers that they were to take possession of the nation in March; and if that be the case, you will see us sooner than you expected. If they should come when the vessel is away, we shall have to take to and run in our canoes, as we have some very fine ones here. One knows not hardly what to do for those d—d puppies, as we may call them, for they are no better.

We find that what I have mentioned is all d—d lies. But Arbuthnot has threatened my life once or twice; but, on my return, I will punish him by the law. You must excuse my bad writing, as I am in a hurry. Give my love to your mother and your sister, and Mrs. Roberts, and all inquiring friends. I have nothing more to say at present, as times will not admit.

I remain yours, forever,

PETER B. COOK.

[Addressed on the back to]

Miss E. A. CARNEY, *Nassau, N. Providence.*

No. 62.

*A. Arbuthnot to W. Hambly.*

*OCHLOCHNEE SOUND, May 3, 1817.*

SIR: On my return here this day, I received a letter signed by you, and dated the 23d March last. As you have taken the trouble of advising me, you will, of course, expect my reply; and I embrace the opportunity of doing it at length. First let me premise, sir, that when you lived at Prospect Bluff, a clerk to Messrs. Forbes & Co., you did not consider Cappachimico, McQueen, or any other of the chiefs of the Lower Creek nation, as outlaws. Does the man whom the attachment of Cappachimico has saved from the hands of retributive justice presume to call him an outlaw? For shame, sir! The most hardened villain would not thus calumniate the saviour of his life. Your generous friend, sir, and the other chiefs, have called me to this coun-

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try. They insist on the fulfilment of my promise; and, as an honest man, I will endeavor to do it. Let your arm of justice fall on the guilty. An honest and upright man, who harms no man, and endeavors to do all the good he can, fears no man or judge; his acts are open to inspection, and will bear the test of scrutiny. Thus, sir, I answer your insinuation, that, since my arrival in this country, I have instigated persons to steal and murder. Ask the lieutenant commanding at Fort Gaines if the letter I wrote him bears the features of an instigator to murder. Ask Opony Hatcho if the recommendatory note I sent him, by order of Opony, breathes the strains of a murderer. Ask Opony himself if my language and advice to him was that of a murderer. Ask Mappalitchy, a chief residing on the Ockmulgee, among the Americans, what my advice was. All those will contradict your vile insinuation. But Mappalitchy informed me the Cowetas were all pleased with the letter and my note Opony sent them, and perfectly accorded with my sentiments of living as brethren, and as one large family, respecting their neighbors, but, at the same time, at all times ready to protect their property. Yet several of them, a few days afterwards, (no doubt influenced by some humane and good man,) recanted their promise, and ordered a letter to be written me; which letter, I presume, I have this day received, signed by you. Now, sir, if your principles were as humane as mine—if you took as much pleasure in fostering any spark of friendship the upper Indians may show to their brethren of the lower nation as you do in fomenting the quarrels between them, you would then be their friend and benefactor. You, sir, that speak their language fluently, have much in your power; but I fear you use that power to the injury of all, and, eventually, to your own ruin. Let me advise you to change your tone and mode of acting. How much more creditable would it be for you to propagate friendly actions, and create an attachment among the Indians of all nations one to the other, than to endeavor to foment quarrels, and have your emissaries in every quarter of the nation spreading false reports, tending to harass and disturb them. Now, sir, with regard to you and Mr. Doyle's reporting that I am no Englishman, and only one of those wild adventurers who risk life and property for *lucre*, be pleased to come down to Ochlochnee, and I will show you a letter written by Earl Bathurst to Governor Cameron, (and which I received from him to read to the chiefs of the Creek nation,) an answer to a letter, I believe, written by you, early in the Spring of 1816.

I shall not reflect on the part you took in blowing up the fort at Prospect Bluff; it is not my business. I know the blacks used you shamefully, as they did all that went near them, yet I think the revenge you took savors much of a savage.

Do not think, sir, that I am to be frightened away from this place while I have the protection of the Spaniards, and the support of honest men. An upright man is not easily daunted.

I keep a copy of this letter, and send a copy of

yours, with my answer, to Opony Hatcho, and, as I am in daily expectation of letters from New Providence, perhaps they may induce me to write you further.

I am, sir, your obedient servant,

A. ARBUTHNOT.

The murders and thefts you talk of I do not believe. There are a parcel of outlaws calling themselves Americans, who are continually coming into the nation, stealing cattle, &c., and lately, I hear, one was killed out of three, *and his horse taken and publicly sold* while in the act of stealing and driving off cattle.

A. A.

To Mr. WM. HAMBLY.

No. 63.

*Indian Talk.*

*To our good brother the Chief Tustonaky Thlucco, the Big Warrior:*

Your brothers, chiefs of the Creek nation, whose names are put to the talk we now send you, have found it necessary to hold the same, that their sentiments and opinions may be known to all their red brethren of the four nations, and stop the mouths of bad men who are continually sending false and bad talks to us as well as to our brethren, for the purpose of making ill-blood between us. Know, then, we have met at Ochlochnee Sound with our warriors and young chiefs, and have held our talk, which is this:

The red brethren of the four nations are all descended from the same fathers, and ought to live as brothers; and for this reason we now take them by the hand, to live henceforth at peace and united to each other, and let no bad talks be listened to, or come among us.

When Colonel Nicholls, the English officer who was last among us, went away, he gave us a good talk, desiring us to live well with all our brethren, and never permit ill-blood to be between us, and to respect the Americans that were our neighbors, and not molest them, or permit our people to steal. We have carefully kept this talk, followed his advice, &c.

It is nearly three years since we received a white bead from the Cherokees; we have held it sacred, and it has been in our — at all our talks; we now send you, that you may forward to their head, Minichico Mico, a pipe from his old friends; you will also send him the present talk, and from him let it be sent to the Chickasaws, and from them to the Choctaws.

Colonel Nicholls promised us to send people from England to keep stores in different parts of the nation to furnish us with goods; he had found people willing to come, but when they heard that the fort of Appalachicola was destroyed, they were fearful of coming, and withdrew their promise.

Let us protect all white men that give us good talks, but let us not regard or listen to those who give us bad ones, but rather send them from among us, for he must be a bad man who wishes ill-blood between brothers.

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From this time, therefore, let us not listen to any bad talks; let us all hold each other fast by the hand of peace, and each brother hold the other in his heart.

This is sent with a good will, and will be kept by us.

Opoithlimico,	Imathluche,
Cappachimico,	Inhimathluchy, Palo
Inhimathlo, Fowl Town,	Chipely,
Charle Tustonaky,	Lahoe Himathlo,
Otosmico,	Homathlemico,
Ochacona Tustonaky,	Talmuches Hatcho,
Euchy Tustonaky,	Hillis Hadjo.

No. 64.

*Mr. Arbuthnot to the Honorable Charles Bagot.*

[Found with Arbuthnot's papers.]

SIR: On my return to this from the Indian nation, about a month since, I received a letter from Mr. Moodie, annexing an extract from a letter of your excellency, and which in future shall be attended to, when I have occasion to write on Indian affairs.

As I am now especially authorized by the chiefs whose names I beg leave to annex to the present to make such representations as may be of service to the nation, and learning by the copy of a letter from the right honorable Earl Bathurst, handed me by his excellency Governor Cameron, that your excellency is instructed to watch over the interests of the four nations, I shall take the liberty to lay before your excellency such matters as have come under my own observation, and what has been reported to me by chiefs in whose veracity I can place some confidence. On my arrival at Ochlochnee Sound last January, I was met by several of the principal chiefs, who reiterated the complaints that were stated to your excellency in their letter of last November. On the Chatahoochee particularly, they stated the Americans were descending in numbers, driving the poor Indian from his habitation. The report was confirmed some weeks after by Otosmico, the chief of the town of Ecan Halloway, on the Chatahoochee, who informed me that the officer commanding at Fort Gaines had repeatedly sent messages to him, desiring he would submit to live under the American Government, and threatening that his non-compliance would force him to turn the guns of the fort against the town and drive them out. These threats, and swarms of American settlers descending, drove the poor Indians from their homes, and thirty-six fields in a state of cultivation were occupied by the new settlers, and where the houses stood the plough has passed over.

On the Choctawhatchy, which is far within the Indian territory, Americans have formed a large settlement, which, if persisted in, will soon drive the Indians to the extremity of the peninsula.

Agreeably to the treaty between Great Britain and America, the latter were to confine themselves to the same boundaries they enjoyed in 812, prior to the war. This they have not done,

but encroached on almost every point of the Indian territory. The chiefs think that it is impossible the conduct of the persons acting so contrary to the treaty can be known to the American Government; and, the more to blind the Government, and to mislead them as to the true state and disposition of the Indians, they are continually spreading reports in the public gazettes, of Georgia, &c., of cruelty committed by the Seminole Indians on inhabitants living on the borders of the United States; whereas it is persons in the back settlements of Georgia who enter the Seminole territory in large parties to steal cattle, which they frequently drive off in gangs of fifty and one hundred at a time; and if in these excursions the Indians meet them and oppose these predatory plunderers, blood sometimes has been spilt, which was the case in April last, when a party of Mickasuky Indians met three men driving off cattle, and attacked them, killing one, and retaking the cattle. But those bloodthirsty back-settlers of Georgia soon retaliated on the poor Indians, for early in June they returned to plunder, and meeting with an Indian encampment they killed one man; another making his escape, they pursued him to another encampment, where they killed two others and a boy; the boy they scalped. Early in July a headman of the town of Suwanee was killed on St. John's river, while hunting, but the chief does not reckon the persons who killed him true Americans. For the better showing your excellency how those poor Indians are abused, I beg leave to enclose you paragraphs taken from American papers, the whole of which are complete fabrications, tending to mislead the American Government. I also beg your excellency's attention to a letter from an American officer, dated at Fort Gaines, with Cappachimico, the head chief of the Seminoles' answer thereto; but notwithstanding it is stated to be by authority of the President of the United States, the gentleman waited no time to receive an answer, but, prior to the chief's messenger arriving at the fort, had continued his road for St. Mary's, leaving them ignorant of what talk he was authorized to give them; and I have since learned that Mr. Dinkins was an officer of General Jackson's staff, travelling through the nation.

HON. CHARLES BAGOT,

*H. B. M.'s Ambassador, Washington.*

No. 65.

*A. Arbuthnot to a person of rank in England.*

[Taken from the London Times newspaper of 7th August, 1818.]

SUWANEE, LOWER CREEK NATION,

*January 30, 1818.*

When I last took the liberty of writing to you, by desire of the chiefs of the Creek nation, I little expected that war would so soon have commenced between the Americans and them. It is, however, actually begun, by the wanton aggressions of the former, in an attack on Fowl Town, during the night. Though this wanton attack has been disavowed by General Mitchell, the

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American agent for Indian affairs, and he has made reparation for the injury and loss sustained by Inhimathlo and his people, yet the continued aggressions of the Americans, and the numbers pouring into the nation, not from the land side alone, but from Mobile and elsewhere, by the Apalachicola river, have compelled the Indians to take arms as their only resource from oppression.

Your friend Hillis Hadjo has been called by his people to put himself at their head, and he is now encamped at Spanish Bluff, the residence of Doyle and Hambly, which is now in the possession of the Indians, with from one thousand to one thousand two hundred men; those men are principally Red Sticks, who are scattered about in the nation, and who have collected and put themselves under his command, with a few hundred Upper Indians who have joined them.

I cannot allow myself to believe that those encroachments on Indian territory are made with the knowledge of the American Government, and General Mitchell's conduct and message to Kenhagee assure me it is not so. But there are persons who wish to get hold of the Indian lands, and they stick at no means, however cruel and oppressive, to obtain their ends. General Gaines's letter, of August last, to Kenhagee, clearly shows that he and General Jackson are determined, if possible, to get hold of the whole Indian lands. After falsely accusing them of murders, thefts, burning houses, &c., he says: "But there is something out in the sea, a bird with a forked tongue; whip him back before he lands, for he will be the ruin of you yet. Perhaps you do not know what or whom I mean. I mean the name of Englishman."

The other contents of this letter plainly show me that those two Generals have formed a plan of possessing themselves of the whole Indian lands. That this plan has originated with Forbes, Innerarities, or those of their subordinate agents, I have little doubt, as every part of the conduct of those inferior actors, shows they have been employed for the express purpose of rooting out the poor Indian from his paternal inheritance. The report of Hambly having made sales, in the name of the chiefs, of all the lands from Pensacola to St. Augustine, comes from St. Mark's fort. I shall soon be there, and learn from what source they derive their information.

That false and improper sales have been made, I have no doubt; without such had been the case, the Americans would never have poured into the Indian nation by the Apalachicola.

It is reported that John Forbes has withdrawn from all Indian concerns; but the Innerarities are enough, with their subordinate agents, to disturb the whole Indian nation; and I have not the least doubt that through them the present troubles come.

The chiefs have written to Governor Cameron for a supply of ammunition, and which Kenhagee informs me Hillis Hadjo, when in England, had orders to demand, in case of actual need. It is really necessary the English Government should do something for those people. In the late war they drew them into their quarrel against Amer-

rica; at the peace they agreed to see them protected in their rights and privileges, and placed on the same footing as before the war; since then they have never troubled themselves about them, thinking it enough that His Majesty's Ambassador had orders to see that those people were protected in their rights and privileges. But how is his excellency the British Ambassador to know if the Indian is righted, and permitted to live quietly on his own land? He interdicts the correspondence of any private individual on Indian affairs, unless it can be put into his hand without any expense. Does he expect a true account of what passes in the Indian nation from the American Government, or from the hiring gazettes of the towns of Upper Georgia? It is the interest of both to deceive, and unless the door is opened for British subjects to speak what they know, and instruct his excellency of such matters respecting the Creek nation as they are certain to be true, he can never have the means of judging what is proper to be done.

I have, by desire of the chiefs, written to his excellency the honorable Charles Bagot on their affairs, and also Governor Cameron, with a demand for a small supply, [of arms, munitions, &c.] of which they stand greatly in need. I trust, sir, you will make such representations to His Majesty's Government as the circumstances of the case require, that those unfortunate people, who look up to you as their friend, may soon rest peaceably and quiet in their country.

You will pardon the liberty I take, which nothing but the pressing solicitations of Kenhagee would have induced me to take; and, with much respect, I am, sir, &c.

A. ARBUTHNOT.

No. 66.

*Boleck to Governor Coppinger.*

[Translation from the Spanish translation received from Governor Coppinger, and communicated by Mr. De Onis, enclosed in his letter of the 27th March, 1818, to the Secretary of State. For the original, in English, see No. 49, court-martial proceedings, No. 2.]

SUWANEE, November 18, 1816.

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you; and I hope you will, when occasion offers, advise me of such things as may be of service to myself and my people. My warriors and others who go to St. Augustine return with false reports, tending to harass and disturb my people, and prevent them attending to their usual avocations. At one time, the Americans, supported by a force of three thousand men, and such of our brethren as they have compelled to join them, are running lines far within our territory; at another, they are collecting a large force at Fort Mitchell, in the forks of the Flint and Chatahoochee rivers, to fall on the towns that may not join them. Now, sir, we

*Relations with Spain.*

know of no reason they can have for attacking an inoffensive and unoffending people, whose wish is to inhabit their woods, without disturbing or being disturbed by any one. We have none of their slaves; we have taken none of their property since they made peace with our good father, King George. We have followed the orders of the officer of our father who was among us, Colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our lands, stealing our cattle, and murdering or carrying off our people. We were told by the same officer that, as allies of our father, we were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before the war; but, so far from complying with the ninth article of that treaty, they are making daily encroachments, and forging treaties (which they pretend are concluded with our people) for cessions and grants of lands which never were in existence, and the signatures of which are unknown to the chiefs of the Creek nation, who alone have a right to assign or transfer the common property. The want of a proper person among our people to acquaint us with these transactions is the cause of our long silence on them, and leads the world, as well as our friends, to think we are in league with the Americans.

The principal chiefs of the nation assembled lately at my town of Suwanee, and resolved to inform the Minister of King George at Washington of our grievances, and of the conduct and usurpation of the Americans; which was accordingly done, and copies sent to England. Until we have one or more persons among our people to watch over our rights and interests, we shall continue to be exposed to the same conduct on the part of the Americans, whose system appears to be the destruction of our peace and tranquillity, and expelling us from our native land.

You desire that I would chase off those who steal my cattle, &c. Some of my people have lately driven away several Americans who were endeavoring to settle at Lachua; and I do not doubt they will represent that as an act of hostility, although you well know that Lachua is in the heart of my territory, and was, until the Americans killed my brother, our chief town. I return you my thanks for your letter,

And am, with great respect, your most obedient, humble servant,

BOLECK, his X mark,  
*Chief of the Seminole nation.*

No. 67.

*Governor Coppinger to the chief Boleck, (Bowlegs.)*

ST. AUGUSTINE, IN FLORIDA,  
December 20, 1816.

FRIEND AND BROTHER BOLECK: Your letter of the 18th of November was delivered to me yesterday by one of your servants, in which you inform me of the receipt of mine of the 26th September last, and other circumstances which give

you and your warriors uneasiness. I see with pain that the whole comes from the information of persons in whom you ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing you and your people from their daily labors. In consequence of this, and of what you tell me of your desire to keep up the best understanding and correspondence with me, and of your hope that the opportunities will not be wanting, let me give you such counsel as may be useful to you, your people, and warriors. I will do so from the sentiments of sincere friendship I bear towards you, fearful, however, that the sentiments of others, who come into the territory under the appearance of friendship, but with bad intentions, may influence your minds and obtain your confidence by their flattering representations. It is ascertained here that two persons have lately presented themselves as commissioners of the English nation, who have carried off several runaway negroes belonging to the subjects of the King, my master, and your friend, among whom was one of Don Francisco Pellicer's, and another of Mr. Bunch's, both inhabitants of this province. This did not seem credible to me, as I could not suppose that so good a friend to our nation as you are could consent to such proceedings; but, in case they have really happened, you will be sensible of their great impropriety, and of the just grounds of complaint on the part of the persons so injured, who are desirous, as well as myself, of assuring you of the sincere good-will and friendship we have for the Seminole tribe of Indians, of which you are the chief.

I am, with great respect, your most affectionate and faithful servant,

JOSE COPPINGER.

To Friend and Brother BOLECK,  
*Chief of the Seminole tribe of Indians.*

No. 68.

*Copy of a sheet of Arbuthnot's journal, found among his papers.*

October 23d (continued.) They had a long talk with Captain W., and stopped all night; this day, meridian, observed in latitude 29° 21', Suwanee bearing northeast three miles. 24th. Started with two men in boat to survey if any entrance to the west branch of the river; found all shallow; pulled boat over the mud, and entered west branch; made poles to mark the easternmost outlet, and descended, but could not this day find the direct channel through the oyster bank, the tide having flowed too much. 25th, at 2 A. M., wind shifted to east, and by 8 A. M. to southeast, when we got under way, and stood off to sea, wind freshening and a nasty short sea rising; at 10 tacked in shore, three fathoms, Suwanee northeast seven miles; the north point of the bay north ten miles, Cedar Keys south seven miles; from sundown to midnight, heavy squalls, with rain and much thunder and lightning; at 0 anchored in four fathoms, no wind, and heavy swell. 26th. First part rainy and squally; at 10 A. M., got

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under way, Cedar Keys just in sight from deck; stood east-northeast, and at 2 P. M. hove to, to wait for canoes seen coming off; came to anchor in two fathoms; six canoes came on board full of Indians and blacks, Billy and Jack among them, with several negroes that were at the bluff; found that Bowlegs and Doherty had started in a canoe last night; this day at meridian observation good, latitude  $29^{\circ} 13'$ , Cedar Keys, the outermost, bearing east-southeast six miles. At 6 P. M. Bowlegs, with retinue, consisting of five canoes, came on board, and continued all night; had a very long talk with Captain W. 27th. The brother-in-law of Bowlegs desired Captain W. to listen to what he had heard from the Spaniards of the Americans' intention of attacking them; they wished to live quietly and attend to their cattle, &c., but could not for the Americans and revolted Spaniards, who daily killed their cattle, &c. This day bought six deer skins, sixteen racoon skins, and three pounds wax, paid in taffia. Bowlegs and retinue left me at 2 P. M.; Captain W. had started about an hour before for Suwanee. At 8 P. M. began to blow fresh from southeast, continued blowing all night. 28th, at 2 P. M., got under way and stood to sea. 29th. Wind northwest, blowing hard and squally, all day beating off and on, double-reefed foresail, reefed mainsail, &c.; at 4 P. M. struck on a shallow bank six miles southeast from the mouth of the river; bore up and stood off; lowered jib and mainsail, and repaired latter, which had given way near the gaff; wore and stood in shore, and came to anchor in fourteen feet water, Great Cedar Key bearing southeast six miles. 30th, at 7 A. M., got under way, and stood for the entrance between the two large keys, luffing and bearing away so as to keep in two fathoms; came to anchor at 9 A. M., a mile and a half from islands. Captain went to sound channel; returned and reported channel to the southward, and that the large island must be brought to bear northeast. At 11 A. M., a canoe, two men, three women and their children, from Cape Anetole; got under way, rounded the bank, and grounded between two banks, where we lay all night. 31st October, warped into a deep channel, with much difficulty drawing her through the mud; wrote W. and Auchisee Indians, and also fishermen; cut poles to stake out channel. 1st November. Wind northeast, extremely cold, again warping, but did not succeed in getting into anchorage; observed meridian, latitude  $29^{\circ} 11'$ , the south end of the Great Cedar Key northwest by north, three-quarters of a mile; the outer or southwest point of the high or South Key southeast and by south one and a half mile; lay quite dry at low water; at 10 P. M. floated off, and stood into a good channel, but laying the warp too far out she tailed on the west side, where we lay for the night, after bowing taut our best bower, laid in mid channel. 2d. Floated off at 10 A. M., and pulled up to good anchorage under the lee of the island; boat went to an inshore key to look for water, and returned two casks full. 3d. Self and captain on shore until

half-past 11 A. M.; caught nothing; observation good, latitude  $29^{\circ} 11'$ ; the high part of South Key due east two miles, the sandy beach of Great Cedar Key west half a mile. At sundown, Captain W. arrived from Suwanee; several canoes with negroes at the point; captain returned from fishing on point; some good fish. 4th. Idle all day; afternoon prepared rum, sugar, coffee, and molasses to send Robin Creighton, per colored lad named Charles, (*see note thereof*;) during the night the wind shifted to the north and north-northeast, drizzling rain and very cold. 5th. Wind north-northeast, rain, and very cold; cleared up before midday; at 4 P. M. two canoes from Suwanee; one came on board, reported Cappachimico and all the chiefs waited for Captain W.; prepared sundry articles for Suwanee, and sent a canoe off to get Frank's canoe to go with Captain W. and self. 6th, at 12 o'clock M., started for Suwanee, in Frank's canoe, camped for the night at the little island, mouth of the river; a canoe, with several men and women, camped at same place, bound for schooner, with corn, &c. 7th. At 4 o'clock A. M. started up the river; at 8 o'clock A. M., camped and breakfasted at Pine bluff, and at 2 o'clock P. M. arrived at Buera landing, took through the pine barren, and lost our way to Christophertown; again getting to the river, at half past 4 P. M. arrived at Robert's; Captain W. and guide had arrived a little before; visited Cappachimico and McQueen at Indiantown. 8th. A long talk with Indians; their complaints of the conduct of the Americans. McQueen mentioned they had taken one of his negroes and confined him in the fort at the forks. A chief from Chehaw said that they had killed three Indians in his neighborhood, on their own ground, and taken eleven horses; several others stated losses in cattle and horses, and the Seminole chiefs in particular; a chief — of — said that, in confidence of the treaty being faithfully fulfilled on the part of the Americans, a half-breed man, named Moses, before the war, settled near the forks, returned to take possession of his fields, and was murdered by the Americans. The chiefs ordered a letter, *in way of memorial*, to be written to our ambassador in America, and copies to be sent to England, representing the conduct of Americans; the same was done agreeably to the substance of their talk, read and interpreted to them by their own interpreters afterwards; each chief put his mark in my presence, which I certified. 9th. Cold and clear; Cappachimico, McQueen, and the other chiefs met, and had a long talk, more fully particularizing their particular grievances; they also stated the number of forts (seven) the Americans had built, and the roads they had cut, and were still continuing to cut, within their territory.

McQueen stated that McIntosh and the Coweta Indians were the cause of the Americans' conduct; that, after the peace, a deputation had been sent up to have a talk with the commander at Fort Mitchell, in the forks, who were instructed to inform him of what Colonel Nicholls had stated to them with regard to their rights to the

*Relations with Spain.*

territory prior to the war being guarantied by the treaty between England and the United States, and to request that he, the commandant, would refrain from further encroachments, and give orders that their lands should be respected. The answer they received from the commander was, that it was all true they had told him, but that he had orders to act as he did. A chief of the Fowl Town Indians stated that the American troops, returning from the destruction of the fort at Prospect Bluff, burnt one entire town and murdered several of their people, because they would not join them when going down the river. The Tiger warrior, and two other men of note, spoke, stating the circumstances of aggression and cruelty that had come to their knowledge. Capparechimo, McQueen, and the others, further stated what reports they had from Doyle, Hambly, &c., and all were of opinion, and firmly believed, that Hambly, a clerk to and influenced by Forbes, was the cause of the destruction of the fort at the bluff; and that Hambly went down the river as a guide to the American army, and was particularly instrumental in its being blown up, as he pointed out to the American officers where the magazines were placed, that they might play their shells against them. Such few negroes as were saved from the explosion unhurt were carried off by the Americans, with cannon, ammunition, arms, &c., that were found in the fort.

N. B. I take no notice of Captain W.'s talk to the Indians, because I doubt much of what he stated was not founded in fact, and was only mentioned by him to strengthen the chiefs in their attachment to the British Government. I say no further on this head. Of his promises, I fear he has also gone too far; and, perhaps, at a future time, when the Indians find them unperformed, the rage for their disappointment may fall on me as a party aiding and abetting Captain W. in his deception. I have gone beyond my promise to Captain W.; I have been deceived in almost everything; and yet he thinks every thing and person must be subservient to him. I have had himself and aid-de-camp on board since the 31st August; in any expedition, in canoe or boat, I have supplied his wants. I kept three negroes on board more than two months on his account. I presented the chiefs for him and on his account. I have seen my provisions taken and given away when we were on short allowance; for Captain W. gives liberally when it is not out of his own pocket, but is extremely costive when anything is wanted from home.

10th. Capparechimo and McQueen gave me a note of the most necessary articles they wanted immediately, and which I promised them to bring, if possible, by the end of December, and land them as agreed. Gave them a card with seals &c., as a token that, when they received a messenger with the duplicate thereof in *R. W.*, he came with the straight talk from me; made each a present of rum, sugar, coffee, and one hundred cigars; also, the Tiger warrior and two others and the rest had a good lot of cigars each; gave them a parting glass; took leave at twelve, midday.

They all started on horseback. The two deputies that go to Nassau with me left behind.

These men are children of nature; leave them in their forests to till their fields and hunt the stag and graze their cattle, their ideas will extend no farther; and the honest trader, in supplying their moderate wants, may make a handsome profit of them.

They have been ill-treated by the English, and robbed by the Americans; cheated by those who have dealt with them, receiving goods and other articles at most exorbitant prices for their peltry, which has been much undervalued. I say the English ill-treat them: after making them parties in the war with America, they leave them without a pilot, to be robbed and ill-treated by their natural and sworn enemies, the Americans. When the English officer, Colonel Nicholls, left Prospect Bluff, on the Appalachicola river, he left particular orders with Capparechimo and the other chiefs not on any account to enter on the territory of the Americans; while, at the same time, he informed them the Americans were to give up that territory they had taken possession of during the war; but, while he informed the Indians how they should act, and what the Americans were to do in compliance with the treaty, he left no person to guide them in their conduct in case the latter should not comply, or continue to extend their encroachments and commit aggressions. When such was the case, they had none to represent their case to the British Government but William Hambly, the clerk of John Forbes, and Doyle, another of his clerks, both of whom had long before the conclusion of the war sold themselves to the American Government, and, while they were receiving *British pay*, acted as spies to the Americans. These persons were not likely to represent the conduct and encroachment of the Americans in their true light. No, they attempted to influence the chiefs to join the Americans. Doyle stated, in a talk at St. Mark's, that in four years no Englishman durst set his foot in the Floridas; yet these were the only persons to whom the poor untutored Indian could apply to represent their grievances to the British Government, or any governor of their islands; and it was not likely they, the tools of the Americans, would give a just and true account of the Indian grievances. Hambly, the Indian interpreter, was ordered to write to the Governor of New Providence, demanding his interference; and, by an intercepted letter from his brother, dated at Regla, in February last, it appears he had written a letter to New Providence; but to whom?

No. 69.

*Arbutnot to the commanding officer at Fort Gaines.*

OCHLOCHNEE SOUND, March 3, 1817.

SIR: I am desired by Peter McQueen, an unfortunate chief, who was some years since obliged to fly from his town of Tuckabatchee, on the Tallapoohatchee river, to claim of your friendship the delivery of a negro man named Joe, (taken away from him since the peace,) whom he states



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to be in Fort Gaines. When McQueen left Tuckabatchee, his property was considerable, both in negroes and cattle; of the former, ten grown negroes were taken by a half-breed man named Barney; nine of whom he learns were sold, and one, a girl, is still in possession of said Barney. Twenty able-bodied negroes were taken by a chief named Colonel, or Auchi Hache, who acts also as an interpreter; and, as he never had possession of any of those persons' property, nor ever did them any injury, to his knowledge, he claims a further proof of your friendship, that you will use your influence in procuring these negroes for him; and, should they be given up by the persons holding them, there is one faithful negro among them, named Charle, who will bring them to him at Ochlochnee river.

The American headmen and officers, that were accustomed to live near him, can testify to his civility and good fellowship with them; and there are none of them, he is convinced, that would not serve him if in their power. As he owes nothing, nor ever took any person's property, none have a right to retain his; and he hopes that, through your influence, those persons now holding his negroes will be induced to give them up.

While I am thus advocating the cause of one unfortunate individual, allow me to claim an extension of your philanthropy to all the Indians within your circle, by your representing to them the folly of their quarrels, and that they ought to live quietly and peaceably with each other.

The Lower Creeks seem to wish to live peaceably and quietly, and in good friendship with the others; but there are some designing and evil-minded persons, self-interested, who are endeavoring to create quarrels between the Upper and Lower Creek Indians, contrary to their interest, their happiness, and welfare. Such people belong to no nation, and ought not to be countenanced by any Government.

The head chiefs request I will inquire of you why American settlers are descending the Chatahooche, driving the poor Indian from his habitation, and taking possession of his home and cultivated fields.

Without authority, I can claim nothing of you; but a humane and philanthropic principle guiding me, I hope the same will influence you, and, if such is really the case, and that the line marked out by the treaty of peace between Great Britain and the United States, respecting the Indian nations, has been infringed upon by the subjects of the latter, that you will represent to them their improper conduct, and prevent its continuance.

I hold in my possession a letter received from the Governor of New Providence, addressed to him by His Britannic Majesty's chief Secretary of State, informing him of the orders given to the British Ambassador at Washington to watch over the interests of the Indian nations, and see that their rights are faithfully attended to and protected, agreeably to the treaty of peace between the British and Americans.

I am in hopes that ere this there is arrived at

New Providence a person from Great Britain with authority to act as agent for the Indian nations; and, if so, it will devolve on him to see that the boundary lines, as marked out by the treaty, are not infringed upon.

I hope you will not think these observations, made by desire of the chiefs, any improper interference; and requesting the favor of an answer, I am, respectfully, sir, your obedient servant,

A. ARBUTHNOT.

P. S. McQueen states that the offspring of the negroes when he left Tuckabatchee were seven of those taken by Barney, and nine of those taken by Auchi Hache, and he supposes they have increased.

No. 70.

*A. Culloh to Arbuthnot, (answer to No. 69,) found among Arbuthnot's papers.*

FORT GAINES, May 1, 1817.

DEAR SIR: On being informed by the commanding officer that you had written, in behalf of Peter McQueen, for a negro man once in the possession of myself at this place, requiring the return of said negro to (as you said) the rightful owner, I take the liberty of informing you that the said negro is now at Fort Hawkins, Oakmulgee river, claimed by an American citizen by the name of Bowen White. He remained with us; he was a deposit of some of the Indians, to be given to the said Bowen when called for. Further of his origin, or manner in which he was claimed as property, I cannot tell anything. You inquired why citizens were descending this river. In answer, I say in right of and conformably to a late treaty between the United States and the Creek nation; for this part of the territory was ceded to us as a compensation for expenses and aid furnished and incurred by the friendly Creek Indians against McQueen and his party, not having any reference or touching any article or part of the treaty between the United States and Great Britain. As to McQueen's having any claims on the good feeling and philanthropy of any citizen of the United States, it is a mockery and a farce; on the contrary, he has incurred both the ill-will and hatred of his own people and them, and has, in fact, been the cause of the destruction and loss of his native country.

Your obedient servant,

AM. CULLOH.

A. ARBUTHNOT,  
*Ochlochnee Sound, Florida Keys.*

No. 71.

*Copy of a paper, without date or signature, found among Arbuthnot's papers; supposed to be the answer to No. 4, in the proceedings of the court-martial on the trial of Arbuthnot.*

It is not in my power to comply with your wishes without the King's command, but you may be assured that I shall lose no time in submitting the representation you have now made to the consideration of His Majesty's Government.

*Relations with Spain.*

No. 72.

*A. Arbuthnot to General Mitchell, agent of Indian Affairs.*SUWANEE, LOWER CREEK NATION,  
January 19, 1818.

SIR: Kenhagee, head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but both troops and settlers ascending the Appalachian river in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and good-will towards the Indians in general induce the chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and paternal birthright, and also order that those who have already seized on their fields may retire therefrom. The Indians have seized two persons known to have been greatly instrumental in bringing the Americans down on their lands, and they are now in their possession as prisoners; and they have it in report that sales of their lands have been made by those two people, without consent, approbation, or knowledge of the chiefs; and, from their long residence in the nation, and the one having enjoyed great confidence in the nation and with the chiefs, as English interpreter, there is some reason to believe those reports, when leagued with the swarms of Americans coming from Mobile and other places seizing the best of the Indian lands. Such improper sales have actually been made.

In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war which, if, persisted in, I foresee must eventually be their ruin; and as they were not the aggressor, if, in the height of their rage, they commit any excesses, that you will overlook them as the just ebullitions of an indignant spirit against an invading foe. I have the honor to be, &c.

A. ARBUTHNOT,

*By order of Kenhagee and Bowlegs,  
acting for themselves and the other chiefs.*CAMP BEFORE ST. MARK'S,  
April 8, 1818.

The foregoing letter was produced to A. Arbuthnot, on his examination before me, and acknowledged by him to have been written by him to General Mitchell, agent of the Creek nation.

ANDREW JACKSON.

Present: Mr. FULRON.

*Supplementary documents received since the letter to Mr. Erving was forwarded.**[From the Public Ledger and Daily Advertiser (of August 27, 1818.)]*

MR. ARBUTHNOT.

The following letters, in addition to those already made public, tend to show the deep interest which this unfortunate gentleman took in procuring redress for what he conceived to be the unprovoked aggressions of the American back settlers on the Indian boundary line.

*A. Arbuthnot to the commanding officer at Fort Gaines.*

*[This is an extract from the letter No. 69 in this collection, consisting of the four paragraphs before the last, which is omitted. See the document No. 69, and the answer to it, No. 70.]*

*Copy of a talk sent from the British agents in East Florida to the Big Warrior, head chief of the Creek nation of Indians.\**

OCHLOCHNEE RIVER, March 3, 1817.

When the English made peace with the Americans, they included the whole of the Indian nations, viz: Creek, Choctaw, Chickasaw, and Cherokee. Those nations were guarantied in the quiet possession of their lands, and the Americans engaged to give up such lands of the Indians as they had taken possession of during the war.

If they have not done so, or if they have been making further encroachments, the chiefs have only to represent their complaints and the aggressions of the Americans to the Governor of New Providence, who will forward them to England, or get them conveyed to the British Minister at Washington, who has orders from the King of England to see that the rights of the nations above mentioned are protected, and the stipulations contained in the treaty, *in their favor*, are faithfully carried into execution.

The Americans have no wish to go to war; they will not, therefore, do anything contrary to the treaty; and what encroachments have been made must be without the knowledge of the chief of the American Government; and, so soon as he is informed thereof by the British Minister at Washington, he will order the American people who have taken possession of Indian lands to draw back to their own possessions.

The Indian nations are all one great family; they possess lands their great forefathers handed down to them, and they ought to hand them down entire to their children. If they sell their land, what do they receive for it? Nothing that will last. It is wasted away in a few years. Whether, therefore, they sell, or give it away, they are robbing their children of the inheritance they had a right to expect. As a great family, they ought to live as such with each other. Let the four

\* This appears to be the same talk with the letter to the Little Prince, mentioned in the proceedings of the court-martial on Arbuthnot's trial.

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nations join in bonds of brotherly love; let them smoke the pipe of peace; let the cultivation of their lands be their chief object during Spring and Summer, and hunting their diversion during Winter; and the produce of their labor will be bought by good people, who will come and deal with them when they know there is anything to be purchased for goods or money.

If the Americans or other nations live near them, let them live in friendship with them, and keep up a good understanding, but on no account sell or give away any of their lands. I recommend this as a friend of humanity and of good order.

**A. ARBUTHNOT.**

The head chiefs of the Upper Creek nation have desired me, Opony, to get the straight talk for them; what is written in the foregoing I believe to be the true and straight talk received from an Englishman,\* who carried two deputies to New Providence, and returned with them to Ochlochnee. I, Opony, have been sent by you, the head chiefs of the Upper Creek nation, to see the Seminole Indians. I have done so; they live quietly and peaceably, and wish to do so, with all their red brethren, in every part of the nation.

Opoy Hatcho has desired me to see those things; I have done so; and see all quiet, and had the talk I now send you, and shaken hands with the friend who gave it me.

That the friend I have met came over with goods by desire of the chiefs of the lower towns, and is a true friend to the Indians. The various and untrue talks that you sent me from time to time must be made by some person an enemy to us, all red brethren, and ought not to be listened to; let me know who they are, and send me an answer as soon as possible to the present talk.

OPONY, his X mark.

Written by order of the aforesaid Opony, the 11th of March, 1817.

**A. ARBUTHNOT.**

Witness: AARON MORRIS.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, Dec. 12, 1818.

SIR: I have had the honor to receive your note of the 30th ultimo, in reply to mine of the 24th of the same month, by which I perceive, with great concern, the failure of the flattering hope I had formed of seeing a speedy and amicable termination of the differences existing between our respective Governments. But I leave to those who may impartially inquire into the state of things, their origin, nature, and all the circumstances hitherto attending them—to those who form their judgments upon the principles of justice, the dictates of conscience, and the most established rules of human reason, whether,

on my part, I have not done even more than could be hoped for at once to terminate a controversy no less unpleasant than it is injurious to the interest of both nations.

It was painful to His Catholic Majesty's Government to find that the differences which originated in the pretensions first formed by the United States in the year 1805 were not then definitively settled; but the tenaciousness of the American Plenipotentiaries in maintaining them, and their refusal to accede to those advanced by His Majesty, in conformity with the most inviolable duties of his Royal Crown, as a preliminary to the ratification of the convention of 1802, threw insurmountable obstacles in the way of both; these obstacles still existed on the part of the United States at the period of the revolution in Spain, in 1808. From that time, and until the latter part of 1815, you are aware, sir, that the Government of the United States declined to acknowledge His Catholic Majesty's Minister, and that the diplomatic intercourse between the two Powers was interrupted. From the moment your Government resolved on changing its course, and receiving the Minister of Spain, my Government has employed the most unceasing efforts to adjust all existing differences, and establish on a just and solid basis the most perfect harmony and lasting friendship. For this I appeal to the correspondence between His Catholic Majesty's Minister of State and the Plenipotentiaries of the United States at Madrid, and to that I have had the honor to carry on here with yourself and your predecessor. I leave it to the judgment of any impartial person who may be disposed to analyze it, rejecting whatsoever is irrelevant or unfounded, to determine who has reason and justice on his side, and decide whether it is possible that any nation in the world, similarly situated, could act with greater generosity and good faith than Spain, or offer greater sacrifices to meet the wishes of the United States, with a view to putting an end to the controversy between them.

As you stated to me, in your note of 31st of October last, that the proposals you then made me by order of your Government comprehended everything which the President conceived it possible, within the compass of his powers and duty, to offer for the final arrangement of the pending differences, I endeavored, in my letter of the 16th of November last, to modify the proposals made in yours of the 31st of October, and approximate them to yours to the utmost extent of my powers. I even expressed my earnest desire to conclude the negotiation, so far as to admit the removal of the boundary line from the Gulf of Mexico, on the river Sabine, as proposed by you; and I only added that it should run more or less obliquely to the Missouri, thereby still keeping in view the consideration of conciliating the wish that your Government might have of retaining such other settlement as might have been formed on the bank of that river, and observing, nevertheless, that it was not to pass by New Mexico, or any other provinces or dominions of the Crown of Spain. Notwithstanding this, and the further

\* See Arbuthnot's Journal, No. 68.

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advantages offered in the said proposals, I now observe that they still appear insufficient to meet the wishes and views of your Government; which is the more a subject of regret to me, as the reasons and grounds on which I founded a hope of a different result were, and still are, of the greatest weight.

What you now state, namely, that your proposal relative to the western boundary between the two Powers involved a great sacrifice on the part of the United States in favor of Spain, appears incomprehensible to me. That proposal, even modified and adapted to that which I made to you on the 24th of last month, included in favor of the United States a considerable extent of territory to the right and left of the Mississippi, to which they neither had nor can have any right whatever; and that fact being, as assuredly it is, beyond all contradiction or doubt, I cannot conceive in what consists the sacrifice made by the United States to Spain in the proposal offered by you. In fact, how can it be denied that Spain has ever been in the peaceable possession of all the countries lying to the westward of the Mermento, the boundary between the Spanish dominions and those of France, in that quarter, being a line running due north from the said river to the Rio Roxo (Red river) between the Adaes and Natchitoches, and thence to the Missouri, although it was not exactly determined whether it was to ascend until that river emptied into the Mississippi, or to some other point? Has the Government of France, peradventure, ever taken any step or contested with His Catholic Majesty's Crown, or carried her pretensions beyond those limits? Is it not universally notorious that this dividing line was always respected by both nations; and that, even after the acquisition of Louisiana by the United States, the different Governors of Louisiana and Texas, with a view to avoid disputes, came to an agreement to consider the territory between the Mermento and the Sabine as neutral, and that it should remain unsettled? Is there the least probability that the United States would propose such an arrangement if they conceived themselves to be the owners of the immense country lying between that river and the Rio del Norte? I cannot but think you must admit these facts. As to the other points of the frontier separating the possessions of both Powers, they are equally well known, being accurately determined and defined in solemn treaties, and particularly in that of 1795, between Spain and the United States. The dividing line between the dominions of the two Powers to the eastward of the Mississippi was fixed on that river to the northernmost part of the thirty-first degree of north latitude, running thence due east to the mid-stream of the river Appalachicola or Chatahoochee; thence along the mid-stream of that river to its junction with the Flint; thence in a right line to the head-waters of the St. Mary's river, and following the course of the same to the Atlantic ocean. On the side of the Gulf of Mexico the line has also been accurately determined, so as to prevent its ever being confounded or mis-

understood. It follows the course of the Mississippi to the Iberville, running through it, and the lakes Maurepas, Pontchartrain, and Borgne, to the Gulf of Mexico. In opposition to facts of such notoriety, unfounded assertions can have no weight. The offer of the United States, made through the medium of the French Government, to require of Spain the territory lying between the Mississippi and the Perdido, at the time the United States were already in possession of Louisiana, is an additional proof tending to demonstrate the certainty and notoriety of the boundaries I have just alluded to. And the French Government, which sold Louisiana to the United States, solemnly declared to this Government, in a note addressed to Mr. Monroe, dated the 21st December, 1804, not only what was its extent, but that it had delivered that province to the United States, such as Spain had retroceded it to France; and that, so far from having sold to this Republic any part of the territory east of the Mississippi, known and possessed by England and by Spain under the name of West Florida, His Imperial Majesty, with a full knowledge of what belonged to His Catholic Majesty, early in the eleventh year of the Republic, authorized General Bournonville, his Ambassador at Madrid, to open a negotiation with Spain for the purchase or cession of the Floridas. From what I have just pointed out, as well as from what I have repeatedly stated in the course of my correspondence, it evidently follows that the real and unquestionable sacrifice was that made by His Catholic Majesty in favor of the United States, as expressed in the above-mentioned proposal.

The continued persistence of your Government in its pretensions to all the territory lying between the Mermento and the river Bravo del Norte is not sufficient to invalidate the titles of property and possession which establish the right and dominion of Spain therein, when the English colonies composing the Republic of the United States were not yet in existence, nor the French settlements, which serve as the pretext for the amazing pretensions of your Government. For, what titles and proofs have been produced to justify them? The disastrous expedition of M. de la Salle; the absurd grant in favor of Crozat; and the erroneous narratives of travellers with maps formed at pleasure, by uninformed and interested geographers—such as Melish and others—who ran their lines as they were dictated to them, and thus disposed of the dominions of Spain as suited their wishes. When did La Salle enter the Rio Bravo, and take possession of the extensive countries between it and the Sabine? Was not his expedition, the sole object of which was to discover the mouths of the Mississippi, lost on the coast of the province of Texas? Did not the Spanish troops immediately advance from Mexico to expel these adventurers? What establishment did France, or any other nation, ever hold on the Bravo or the Colorado? The grant of Louis XIV., no less contemptible than the tales and fables of the missionary Hennepin—will it perchance name the river Bravo, the Colorado, or

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the Columbia? It only makes mention of the Mississippi, or river of St. Louis, and of the waters emptying therein; and if, under the sanction of that grant, it were allowable to include, without reserve, all the lands washed by those waters, or all those which might come in contact with them, it would perhaps be no difficult matter to extend that pretension to the remotest rocks of Patagonia, and even to the South pole.

I have demonstrated, by the most abundant evidence, what are the unquestionable boundaries which divide the Spanish possessions from those of this Republic; and notwithstanding nothing has been produced by the United States to establish their pretensions, and that the rights of Spain have hitherto been acknowledged and notorious, without any Power ever having disputed the property which she has, and always has had, since the sixteenth century, in the aforesaid territories, the Government of His Catholic Majesty is, and at all times has been, ready to produce the titles and documents in support of its rights, for the greater conviction and satisfaction of your Government, and for the impartial comparison of them with those which may be presented by the United States. You have declined these, in consequence, as you inform me, of the order you have received from the President, which only requires that I should subscribe to what he has been pleased to decide on; and, in case I do not agree to this, nothing further is wished to be heard in support of the rights of Spain; and that your Government retracts the proposals it has made for the adjustment of the question of boundaries. In consequence of so peremptory and categorical a declaration, and of proposals which have never been advanced in the course of the present negotiation, until your letter of 31st October last, to which it is impossible I should yet have received an answer from my Court, I had no other alternative than to transmit a copy of your letter to my Sovereign, which I have done by the Secretary of this Legation; and it will be very satisfactory to me to learn that His Majesty, animated as he is by the most lively desire to terminate these matters amicably, and on being informed that we are already agreed upon all the other points, may, in his wisdom, find means to conciliate the wishes of the United States with the interests and dignity of his Crown. In the meanwhile, it is necessary I should inform you that as the proposals made to me in the name of the President are, as you signify, no longer obligatory, in like manner do those cease to be obligatory which I have made to you by the order of my Government; and that, consequently, the rights of the Crown of Spain are entirely free as to whatsoever appertains to it.

I cannot, however, refrain from expressing to you my inability to comprehend upon what grounds the United States decline the proposal of submitting the pending differences, in their actual state, to the judgment and decision of one or more friendly Powers in whom the United States may place full confidence. I have read with the greatest attention the note referred to

by you, and I candidly confess that I have continued in the same uncertainty. When two nations cannot meet on points upon which they may disagree, a spirit of equity and the love of justice require, and the law of nations points out, a recourse to the arbitrament of an impartial third party. This maxim, so deserving of respect, was adopted by the United States themselves on the occasion of their acceptance of the mediation of Russia in their differences with Great Britain; and also on that of their agreement with the latter Power to submit to arbitrament whatever difficulties might arise in the settlement of their boundaries. A similar course has been adopted by all nations under similar circumstances; and, in fact, what mode is there, when two nations (or two individuals in particular cases) cannot agree upon a certain point, each one conceiving they have reason and justice on their side, but to submit the question to the impartial judgment and decision of a third party, chosen to their mutual satisfaction? Spain, convinced that this mode was the fairest and most expeditious, was anxious to adopt it, with all the sincerity and good faith which have characterized her; and in the event of its not being adopted, through the unalterable opposition of your Government, there can be no room for apprehension or regret as to the opinion which will be formed by the impartial world on this point.

In reference to what you state respecting the transmission, by order of the President, to the Minister of the United States at Madrid, of all the evidence and documents relative to the conduct of the Governor of Pensacola and the Commandant of St. Marks, with instructions to lay them before His Catholic Majesty's Government; and the demand, in consequence of the nature of the facts therein exhibited, of the condign punishment of those officers, I abstain from offering further proofs in addition to those I have already presented of the good conduct, honorable proceeding, and strict discharge of duty, on the part of those individuals acting under the authority of the King, my master, and in conformity with the existing treaty between the two nations, as the opportunity will be afforded of examining and comparing at Madrid the evidence adduced by Mr. Erving with that which my Government has received, or may receive, from the authorities whose duty it is to transmit it. If, upon such examination and comparison, it should appear that the Governor of West Florida and his officers have conducted themselves improperly, I am confident that due punishment will be inflicted on them; and if, on the other hand, the American General and his officers should be found to have acted in an unjustifiable manner, the United States cannot hesitate to proceed against them, nor to indemnify Spain for the losses and injuries sustained in consequence of the aggression complained of.

With respect to the conduct of General Jackson in the invasion of Florida, and the excesses committed there in violation of the sovereignty and dignity of a friendly Power, as they are pub-

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lic and notorious, and sufficiently reprobated by public opinion, and as they are identified with the subject which has just been referred to, I likewise abstain from answering the arguments by which you have endeavored to justify that officer in the note I have the honor to reply to. Whatever may be the causes which, in the view of your Government, justified the war against the Seminoles, you cannot fail to admit how improbable it is that those miserable Indians, feeble, and wholly destitute as they are, could have provoked it. In the letter of the chief Boleck to the Governor of St. Augustine, of the 20th December, 1816, a copy of which I had the honor to transmit to you on the 27th March last, you must have remarked that he speaks of assassinations, carrying off of men and cattle, usurpations of his territory, and even forging of treaties for the cession of lands, signed or marked by the names of persons unknown to the chiefs of the Creek nation, who, he adds, are alone authorized to transfer the general property; of all which he accuses the Americans. Besides, the friendship and good understanding existing between the two nations, and the treaty itself, on the authority of which the measures of General Jackson are supported, decisively required that any complaints which there might be against the Indians should be laid before His Majesty's Government, or before his Minister near this Republic, previous to the adoption of violent measures; as it was scarcely possible that those excesses could be restrained by His Majesty so long as he remained ignorant of them, and was only informed of the complaints of the continual vexations exercised towards the miserable Indians by the citizens of this Union.

I refrain from attempting any refutation of your remarks on the admission, by the Spanish Governor of Florida, of two English traders into that province, without orders from His Catholic Majesty's Government, or without notifying General Jackson thereof. It is evident that, if he admitted them by order of the King's Government, he was under no obligation to notify the American General of it; and if he admitted them without the necessary order, he was solely responsible to his Sovereign for his conduct. The unquestionable fact is, that General Jackson, at the head of his army, fell upon Florida as a haughty invader and conqueror, regardless of the laws of humanity and the feelings of nature, and put to a cruel death two foreigners, who there enjoyed the protection of Spain, and an asylum which has ever been held sacred by all civilized nations; thereby offering an unexampled insult to the sovereignty and independence of Spain; trampling under foot the most solemn compacts, founded on the laws of nations; and contemptuously driving from that province the Spanish commandants and troops in garrison there. Your further remarks on the restrictive system of the Spanish Government are not strictly conformably to the fact; since you cannot be ignorant that explorators, travellers, and even American officers with troops, have, at different periods, traversed the provinces and territories of the Crown of Spain

in that part of America; and that only such persons have been arrested as have been found violating the laws of the country, or aiding, with arms in their hands, banditti and rebels, for the purpose of subverting good order and public tranquillity.

Before I conclude this note, I have to state that, if the project of the definitive adjustment of all the differences pending between the two Governments, which I presented to you on the part of mine, also included the claims for American captures made by the French on the coasts of Spain, or carried by them into Spanish ports, and there condemned in the first instance by French consuls, it was a sacrifice agreed to by Spain, with a view to terminate, once for all, these unpleasant disputes, and, by this additional proof of her condescension and generous friendship for the United States, to conciliate a correspondent proceeding on the part of your Government, from a respect to national law and the solemn principles of justice and equity, as it regards Spain. But this sacrifice, as well as that offered by me on the subject of boundaries and the cession of the Floridas, ceased to have any effect or force from the moment your Government refused to admit the said project, and, consequently, His Catholic Majesty relinquishes to the United States all the rights they may have to claim of France for the said prizes condemned by her consuls and tribunals. Whilst that nation exists, no recourse can in equity be had on Spain for indemnity for those spoliations. The recourse on Spain can in nowise be considered but as secondary. France, being the aggressor, comes under the obligation as a principal. It was she who derived the benefit of those prizes, and on her devolves the responsibility for their amount; and Spain has only become accountable in this concern as the security or caution of France. In conformity with this principle, an opinion has been given by three of the most eminent advocates of this country, who were consulted on the subject. It is also in strict conformity with the principles of natural law, and the venerable canons of common justice. It is in vain that reference is had to the letter of the existing treaty to suppose and insist on the contrary. That treaty can never receive an interpretation contradictory of those principles and the dictates of human reason.

The obligation of Spain cannot extend farther than to claiming of France, in behalf of the United States, and employing her best endeavors to obtain for them a settlement and satisfaction from that nation; which, however, is to be understood only in case the United States have not already been indemnified by France, as has been repeatedly declared by the French Government, or may have adjusted or abandoned that right by the treaty of 1800, and in subsequent conventions, as I have seen it stated in several public writings in this country.

Until I receive fresh orders, it is my duty to insist on the adoption of such measures by your Government as will promptly and effectually put a stop to the piracies which, for a series of years

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have been carried on in various parts of this Union against the commerce of Spain. This system of plunder has been carried to a height unexampled in history; and the clamors of the reflecting part of the people of the United States denounce it to the whole world as a public calamity.

As to the exchange of the ratifications of the convention of 1802, I am ready to proceed to execute it with you, whenever you will be pleased to name a time for that purpose.

In the mean while, I renew to you the assurance of my distinguished consideration, and I pray God, &c. **LUIS DE ONIS.**

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, January 11, 1819.

SIR: I have just received a courier extraordinary of my Government; and, by the despatches he has brought me, I am authorized by His Majesty to give a greater extent to the proposals which I made to you for adjusting and terminating amicably all the subjects in dispute between the two Powers.

As the great difficulty which has hitherto opposed this desirable arrangement is the exact demarcation of the line which divides, or should divide, the dominions of the Crown of Spain from the territory of the United States westward of the Mississippi, and as you were pleased to state to me, in your note of the 30th September last, that the principal motive which induced the President to withdraw the proposals which you had made to me by his direction, was the want of instructions authorizing me to extend the boundary line to the Pacific ocean, I have the honor to inform you that His Majesty, although then unacquainted with the proposals made by you to me in your note of the 31st October, with a view to give an eminent proof of his sincere and generous friendship for this Republic, has been pleased to authorize me to settle this point and others embraced by former proposals. If the President should agree to your entering into an amicable arrangement of them, and also to modify on his part the proposals you have made to me, I do not doubt that, either by correspondence or in conference, we may speedily attain the desired object—the termination of this interesting affair. I flatter myself that the President, as well as the whole American people, cannot but fail to acknowledge, in this disposition of His Majesty, (before he had a knowledge of the exorbitant pretensions of your Government,) the good faith and generosity of his proceeding, and to admit that a measure at once so frank and so decided claims a correspondent feeling on the part of this Republic; the maintenance of perfect amity and good correspondence between the two Powers being obviously calculated to promote the best interests of both.

In the expectation of being soon favored with the decision of the President, I beg leave to renew to you the assurances of my high respect; and I pray God to preserve you many years.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, January 16, 1819.

SIR: In consequence of the wish expressed by you yesterday, in the interview to which you were pleased to invite me, that I would state the proposals for which I am authorized by the fresh instructions I have received by a special messenger from my Government, and relying on your assurances that, notwithstanding the proposals you had made to me, the President would take those into consideration which I might make anew for the purpose of settling amicably all pending differences, I have the honor to confirm to you those which I made in my note of the 16th of November last, and to add thereto that His Majesty will agree that the boundary line between the two States shall extend from the source of the Missouri, westward, to the Columbia river, and along the middle thereof to the Pacific ocean. If this basis should be accepted by the President, (as I trust it will, inasmuch as it presents the means of realizing his great plan of extending a navigation from the Pacific to the remotest points of the Northern States and of the ocean, and of enlarging the dominions of the Republic by the acquisition of both the Floridas,) I will have no hesitation in agreeing to an arrangement honorable and satisfactory to both nations, upon the point on which we differ, relating to the indemnity claimed for the injuries resulting from the occupation of the territories of the King by the forces of this Union.

I conceive that you, as well as the President and the whole American people, cannot but see, in this evidence of the spirit of conciliation by which His Catholic Majesty is actuated, a certain pledge of his desire to strengthen and cement the ties of friendship with this Republic; and I trust that the answer of the President will correspond with the sacrifices made by His Majesty, as well with a view to the prompt satisfaction of the citizens of the United States for whatever injuries they may have sustained, as to the complete removal of every cause of future disagreement between the two nations. But if, contrary to my expectations, this should not be the case, I shall feel a sincere regret in seeing this desirable arrangement protracted until His Majesty, on being made acquainted with the extraordinary pretensions of your Government by the despatches of which Don Luis Noeli, the secretary of this legation, was the bearer, may transmit to me such orders as he may deem expedient.

I renew to you the assurances of my distinguished consideration, and I pray God to preserve you many years.

**LUIS DE ONIS.**

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE,  
Washington, January 29, 1819.

SIR: Your letter of the 16th instant has been submitted to the consideration of the President of the United States by whose directions I have the honor of informing you that the proposal to

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draw the western boundary line between the United States and the Spanish territories on this continent, from the source of the Missouri to the Columbia river, cannot be admitted. I have to add, that, for the purpose of an immediate arrangement of affairs with Spain, this Government repeats the proposal contained in my letter to you of the 31st October last;\* and if you are not authorized to agree to it, we are willing to adjust the other subjects of difference, leaving that to be settled hereafter. But if your powers are incompetent to accept either of these offers, the President thinks it useless to pursue the discussion any further of subjects upon which there can be no hope entertained of concluding an agreement between us.

Be pleased to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, February 1, 1819.

SIR: I have received your note of the 29th January, in which you are pleased to state to me, that, having laid before the President my note of the 16th, he has directed you to inform me that my proposal to fix the boundary between the two States, by a line from the source of the river Missouri to the Columbia, and along the course of the latter to the Pacific, is inadmissible; but that, with a view to an immediate arrangement of affairs with Spain, you repeat to me the proposal contained in your note of the 31st October last, and add, that, if I am not authorized to agree to it, we may adjust the other subjects of difference, leaving that to be settled hereafter.

My powers authorize me to adjust all such differences as His Majesty was apprized of at the date of my last despatches, which are the 4th November. The proposal referred to by you is of the 31st October preceding, and in all probability no answer to it can be expected before the middle or end of March. Taking into consideration, however, on the one hand, the earnest desire of His Catholic Majesty to terminate these matters before the rising of Congress, and thereby to avoid a further delay of a twelvemonth in settling the indemnities claimed by citizens of the Union, and, on the other, the probable anxiety of your Government to carry into execution the establishments contemplated in the Floridas, I am prepared to take upon myself the definitive settlement of the points in controversy, provided the President, animated by correspondent feelings, is willing to modify the proposals made to me, so as to render them consistent and compatible with the interests of both Powers.

I have proved to you, in the most satisfactory manner, that neither the Red river of Natchitoches nor the Columbia, ever formed the boundary of Louisiana; but, as you have intimated to me that it is useless to pursue the discussion any further, I acquiesce with you therein; and I agree that,

keeping out of view the rights which either Power may have to the territory in dispute, we should confine ourselves to the settlement of those points which may be for the mutual interest and convenience of both.

Upon this view, therefore, of the subject, and considering that the motive for declining to admit my proposal of extending the boundary line from the Missouri to the Columbia, and along that river to the Pacific, appears to be the wish of the President to include within the limits of the Union all the branches and rivers emptying into the said river Columbia, I will adapt my proposals on this point so as fully to satisfy the demand of the United States, without losing sight of the essential object, namely, that the boundary line shall, as far as possible, be natural and clearly defined, and leave no room for dispute to the inhabitants on either side.

Having thus declared to you my readiness to meet the views of the United States in the essential point of their demand, I have to state to you that His Majesty is unable to agree to the admission of the Red river to its source, as proposed by you. This river rises within a few leagues of Santa Fe, the capital of New Mexico; and as I flatter myself the United States have no hostile intentions towards Spain, at the moment we are using all our efforts to strengthen the existing friendship between the two nations, it must be indifferent to them to accept the Arkansas instead of the Red river as the boundary. This opinion is strengthened by the well-known fact, that the intermediate space between those two rivers is so much impregnated with nitre as scarcely to be susceptible of improvement.

In consideration of these obvious reasons, I propose to you, that, drawing the boundary line from the Gulf of Mexico, by the river Sabine, as laid down by you, it shall follow the course of that river to its source; thence, by the ninety-fourth degree of longitude, to the Red river of Natchitoches, and along the same to the ninety-fifth degree; and crossing it at that point, to run by a line due north to the Arkansas, and along it to its source; thence, by a line due west, till it strikes the source of the river San Clemente, or Multnomah, in latitude 41°, and along that river to the Pacific ocean; the whole agreeably to Melish's map.

In case this basis, which not only approximates your proposals, but fulfils, in every essential point, the wishes you have stated to me, be admitted by the President, His Majesty, with a view to give the United States a more convincing proof of his generosity, and his desire to strengthen the bonds of amity with this Republic, consents to relinquish the claim of indemnity for the injuries sustained by his treasury in consequence of the invasion of the Floridas, reserving only to the inhabitants of the same their right to what may appear to be justly due to them for their losses by that event.

It is understood that the convention of 1802, lately ratified, is annulled as far as it relates to the indemnity for injuries and losses claimed by

\* Communicated to Congress, 14th December, 1818.



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the United States or their citizens of Spain; inasmuch as full compensation for the same is to be made to them from the sales of the lands in the two Floridas, and of the immense possessions westward of the Mississippi, ceded by His Majesty in virtue of that treaty; and that the United States, actuated by the most sincere desire to remove every cause of difference between the two nations in future, will take into consideration the necessity of establishing such regulations as, in their wisdom, they may deem most expedient to prevent the evasion of the laws of the Republic, to the injury of the commerce of the subjects of His Catholic Majesty.

I renew to you, sir, the assurances of my distinguished consideration, and I pray God to preserve you many years.

LUIS DE ONIS.

HON. JOHN Q. ADAMS,  
*Secretary of State.*

*Projet of an article describing the western boundary, communicated to Don Luis de Onis by the Secretary of State, February 6, 1819.*

ARTICLE.—It is agreed that the western boundary between the United States and the territories of Spain shall be as follows: Beginning at the mouth of the river Sabine, on the Gulf of Mexico; following the course of said river to the thirty-second degree of latitude, the eastern bank and all the islands in the river to belong to the United States, and the western bank to Spain; thence, due north, to the northernmost part of the thirty-third degree of north latitude, and until it strikes the Rio Roxo, or Red river; thence, following the course of said river, to the northernmost point of the bend, between longitude 101 and 102 degrees; thence, by the shortest line, to the southernmost point of the bend of the river Arkansas, between the same degrees of longitude 101 and 102; thence, following the course of the river Arkansas, to its source, in latitude 41 degrees north; thence, following the same parallel of latitude 41 degrees, to the South sea. The northern banks and all the islands in the said Red and Arkansas rivers, on the said boundary line, to belong to the United States, and their southern banks to Spain; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818. But, if the source of the Arkansas river should fall south or north of latitude 41 degrees, then the line from the said source shall run due north or south, as the case may be, till it meets the said parallel of latitude, and thence, as aforesaid, to the South sea. And it is further agreed that no Spanish settlement shall be made on any part of the said Red or Arkansas rivers, nor on any of the waters flowing into the same, nor any east of the chain of Snow mountains between the latitudes 31 and 41 degrees, inclusively; and that the navigation of said rivers shall belong exclusively to the United States forever.

15th CON. 2d SESS.—67

*Projet of a treaty delivered by Don Luis de Onis to the Secretary of State, February 9, 1819.*

[Translation sent by Don Luis de Onis.]

His Catholic Majesty and the United States of America, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevail between the two parties, have determined to settle and terminate all their differences and pretensions by a treaty, which shall designate with precision the limits of the one and the other, the settlement whereof will be productive of general advantage and reciprocal utility to both nations.

With this intention, His Catholic Majesty has appointed the most excellent Don Luis de Onis Gonzales y Vara, Lord of the town of Rayaces, perpetual regidor of the corporation of the city of Salamanca, knight grand cross of the royal American order of Isabella the Catholic, decorated with the lys of La Vendée, knight-pensioner of the royal and distinguished Spanish order of Charles the Third, member of the supreme assembly of the said royal order, of the council of His Catholic Majesty, his secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America; and the President of the United States, with the advice and consent of their Senate, has appointed Mr. John Quincy Adams, Secretary of State of the United States. And the Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between His Catholic Majesty, his successors and subjects, and the United States and their citizens, without exception of persons or places.

ART. 2. His Catholic Majesty, desiring to give a distinguished proof of his friendship to the United States, cedes to them, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida, such as they were ceded to him by Great Britain in 1783, and with the limits by which they are designated in the treaty of limits and navigation concluded between Spain and the United States on the 27th October, 1795.

ART. 3. The adjacent islands dependent on said provinces, places, public squares, public edifices, fortifications, barracks, and other buildings which are not the property of some private individual, archives and documents which relate directly to the property and sovereignty of said provinces, are included in this article.

ART. 4. That at no time whatever there may be any dispute or mistake in the boundaries which shall separate in future the territories of His Catholic Majesty and those of the United States to the westward of the Mississippi, the two high contracting parties have agreed to fix them in the following manner: The boundary line between the two countries shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in

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the sea; continuing north, along the middle of that river, to the thirty-second degree of latitude; thence, by a line due north, to the thirty-third degree of latitude, where it strikes the Rio Roxo of Natchitoches, (Red river,) following the course of the Rio Roxo, to the westward, to the hundredth degree of longitude, and thirty-three and one-fourth degree of latitude, where it crosses that river; thence, by a line due north, by the said one hundredth degree of longitude from London, according to Melish's map, till it enters the river Arkansas; thence, along the middle of the Arkansas, to the forty-second degree of latitude; thence, a line shall be drawn to the westward, by the same parallel of latitude, to the source of the river San Clemente, or Multnomah, following the course of that river to the forty-third degree of latitude; and thence, by a line due west, to the Pacific ocean. All the country belonging to His Catholic Majesty, included in the said line to the eastward, His Majesty cedes to the United States, in full property and sovereignty, forever; as also the islands in the rivers Sabine, Red river of Natchitoches, Arkansas, and Multnomah, that may be situated within the limits which are here pointed out: both parties to maintain the navigation of all of them free as respects the parts thereof which constitute their frontiers.

ART. 5. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to these persons, and also as to their respective escorts, should such be deemed necessary.

ART. 6. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject in either case to duties.

ART. 7. The inhabitants of the two provinces aforesaid, and those in all the territories which His Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States as soon as possible, agreeably to the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the other States.

ART. 8. The territories of the two Floridas, which, at the time of the delivery which is to be made of them to the United States, should be occupied by the troops or authorities of the Re-

public, shall be delivered to the commissioners which His Catholic Majesty or the Captain General of the Havana may send for that purpose, in order that the said territories may be delivered up in a regular manner to the commissioners or officers appointed by the United States to receive them.

ART. 9. All the grants of lands made by His Catholic Majesty, or by his legitimate authorities, in the aforesaid territories of the two Floridas, and others which His Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting those grants which may have been made after the 24th of January of last year, the date that the first proposals were made for the cession of these provinces, which shall be held null, in consideration of the grantees not having complied with the conditions of the cession.

ART. 10. The two contracting parties, animated by the most sincere desire of conciliation, and with a view of eradicating all the dissensions which have existed between them, and to secure that good harmony which they desire perpetually to maintain with each other, reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective subjects and citizens, may have suffered until the time of signing this treaty.

The renunciation of the United States will extend—

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To all claims of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans.

4. And to all the claims of citizens of the United States upon the Government of Spain, in which the interposition of the Government of the United States may have been solicited before the date of this treaty, and since the date of the convention of 1802, and which may have been made to the Department of State of this Republic, or to the Minister of the United States in Spain.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, fitted out and equipped at New York.

4. To the revenue collected by the United States in the territories of Florida that have been occupied by their troops, and to the indemnities which His Catholic Majesty is entitled to for the injuries caused to his Royal Crown by those invasions.

Finally, to all claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic

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Majesty's Government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

ART. 11. The convention entered into between the two Governments on the 11th August, 1802, ratifications of which were exchanged on the 21st December, 1818, is annulled in that part which relates to the payment of the injuries which the United States and their citizens claim; it being agreed between the two high contracting parties that these injuries shall be paid integrally by the United States from the proceeds of the public or crown lands of the two Floridas and other territories ceded by His Majesty in this treaty; so that both Governments consider all their claims, and those of their subjects and citizens, as cancelled from this date, excepting those claims which the citizens of the United States may have against Spanish individuals, or which the latter may have upon the citizens of this Republic.

ART. 12. The treaty of limits and navigation of 1795 remains confirmed in all and each one of its articles, excepting the second, third, fourth, twenty-first, and the second clause of the twenty-second article, which, having been altered by this treaty, are no longer valid.

With respect to the fifteenth article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this may be so understood with respect to those Powers who recognise this principle; but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Government acknowledge this principle, and not of others.

ART. 13. In order to avoid frauds, and the great evils which arise from concealing the destination of vessels by clearing out, in general terms, for the West Indies, Spanish main, Europe, &c., the two high contracting parties have agreed that, in future, all merchant vessels belonging to their respective subjects or citizens shall be cleared out for a special port, either at their respective custom-houses or in those of other Powers, from whose ports said vessels may depart in continuation of their primitive voyage, or in case they should undertake a new one; and the merchant vessels of either of the two nations that, in violation of their clearances, should enter other ports, without justifying the motives which induced them to it, or should be met with on the high seas by their vessels of war or privateers cleared out in violation of this article, shall be detained, proceeded against, and, upon conviction, forfeited.

ART. 14. In case there shall be just cause to suspect the character of the vessels, or which should not be cleared out for a specified port, as is stipulated in the preceding article, or that the cargo belongs to enemies of either of the con-

tracting parties whose Governments do not recognise the principle that the flag covers the property, or which shall consist of articles contraband of war, such vessels may be detained and sent to the nearest and most convenient port to which the ship of war or privateer that may have detained such a vessel belongs, where she shall be adjudged agreeably to the law of nations, and the practice established by other maritime Powers. And it is agreed that adjudication shall be had with the least delay possible; and if it shall be proved that the detention or capture was unjust, it shall not only be the duty of the tribunal where the case was tried to release the vessel and cargo, but it shall decide the corresponding indemnity for the damages and injuries that may have been sustained, to be paid by the captors, and, in their defect, by the Government by whom they shall be commissioned.

ART. 15. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up at the instance of the Consul, who shall prove, nevertheless, that the deserters belong to the vessels that claim them, exhibiting the document that is customary in their nation; that is to say, that the Spanish Consul in an American port shall exhibit the roll of the vessel, and the American Consul in a Spanish port the document known by the name of *articles*; and if the name of the deserter or deserters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel which they shall belong.

ART. 16. His Catholic Majesty having condescended to make the cessions to the United States which are specified in the present treaty, in compliment to the United States, with the object of cancelling all the claims they have demanded of the Royal Crown, the United States will certify, in due form, that they have not received any compensation from France for the injuries they suffered from her privateers, Consuls, and tribunals, on the coasts and in the ports of Spain; and they will present an authentic statement of the prizes made, and of their true value, that Spain may claim from France the return of this amount.

ART. 17. It being mutually advantageous to the commerce of Spain and of the United States to facilitate the communication between both nations for a limited time in the territories ceded by this treaty, until they can agree upon the regulations relating to commerce which may be best adapted to favor the same, the two high contracting parties agree that Spanish vessels which may arrive loaded solely with the produce or manufactures of Spain, directly from the ports or colonies, shall be admitted into all the ports of the two Floridas that may be lawfully open to the trade of other nations, for the space of twelve years, without paying more duties for their produce or merchandise, or greater ton-

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nage duty, than what are paid by vessels of the United States.

During said time no other nation shall be entitled to the same privileges in the ceded territories. The twelve years shall begin three months after exchanging the ratifications of the present treaty; at the expiration of said time, Spanish vessels shall be received in said territories on the same footing as the most favored nations.

ART. 18. The present treaty shall not be in force until ratified in due form by the contracting parties; and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the underwritten Plenipotentiaries of His Catholic Majesty and of the United States of America, have signed, by virtue of our powers, the present treaty of friendship and limits, and have thereunto affixed our seals, respectively.

Done at Washington, this — day of February, 1819.

*Counter projet of a treaty, communicated by Mr. Adams to Don Luis de Onís the 13th of February, 1819.*

The United States of America and His Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevail between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate with precision the limits of their respective bordering territories in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States; and His Catholic Majesty has appointed the most excellent Lord Don Luis de Onís Gonzales Lopez y Vara, Lord of the town of Rayaces, perpetual regidor of the corporation of the city of Salamanca, knight grand cross of the royal American order of Isabella the Catholic, decorated with the lys of La Vendée, knight-pensioner of the royal and distinguished Spanish order of Charles the Third, member of the Supreme Assembly of the said royal order, of the council of His Catholic Majesty, his Secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and His Catholic Majesty, his successors and subjects, without exception of persons or places.

ART. 2. His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida. The adjacent islands, dependent on said provinces, all public

lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissioners or officers of the United States duly authorized to receive them.

ART. 3. The boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico at the mouth of the river Sabine, in the sea; continuing north, along the western bank of that river, to the thirty-second degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red river; thence, following the course of the Rio Roxo westward, to the degree of longitude one hundred and two degrees west from London, and twenty-five degrees from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude forty-one degrees north; and thence, by the parallel of latitude, to the South sea: the whole being as laid down in Melish's map of the United States, published in Philadelphia, improved to the 1st of January, 1818. But, if the source of the Arkansas river should be found to fall north or south of latitude forty-one degrees, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude forty-one degrees; and thence, along the said parallel, to the South sea; the Sabine and the said Red and Arkansas rivers, and all the islands in the same, throughout the course thus described, to belong to the United States; and the western bank of the Sabine, and the southern banks of the said Red and Arkansas rivers, throughout the line thus described, to belong to Spain. And the United States hereby cede to His Catholic Majesty all their rights, claims, and pretensions to the territories lying west and south of the above described line; and His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

ART. 4. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet, before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings, and the result agreed upon by

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them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ART. 5. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject, in either cases, to duties.

ART. 6. The inhabitants of the territories which His Catholic Majesty cedes to the United States by this treaty shall be incorporated into the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

ART. 7. The officers and troops of His Catholic Majesty in the territories hereby ceded by him to the United States shall be withdrawn, and possession of the places occupied by them shall be given, within six months after the ratification of this treaty, or sooner if possible, by the officers of His Catholic Majesty, to the commissioners or officers of the United States duly appointed to receive them.

ART. 8. All grants of land made by or in the name of His Catholic Majesty in the aforesaid territories, after the 24th of January, 1818, shall be held null, the conditions of the said grants not having been performed by the grantees. All grants made before that date by His Catholic Majesty, or by his legitimate authorities, in the said territories, the conditions of which shall have been performed by the grantees according to the tenor of the respective grants, and none other, shall be confirmed and acknowledged as valid.

ART. 9. The two contracting parties reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this treaty.

The renunciation of the United States will extend—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans in 1802.

4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and from the unlawful seizure of vessels or cargoes belonging to citizens of the United States in the ports and territories of Spain or the Spanish colonies.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

Finally, to all the claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic Majesty's Government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

ART. 10. The convention entered into between the two Governments on the 11th August, 1802, the ratifications of which were exchanged on the 21st December, 1818, is annulled.

ART. 11. The United States, exonerating Spain from all demands in future on account of the claims of their citizens to which the renunciations herein contained extend, undertake to make satisfaction for the same to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of these claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate; which commission shall meet at the city of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings; for the faithful and diligent discharge of their duties; and, in case of the death, sickness, or necessary absence of any such commissioner, his place may be supplied by the appointment as aforesaid, or by the President of the United States during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same; and the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of 27th October, 1795; the said documents to be specified when demanded at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the

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United States, either immediately at their Treasury, or by the creation of stock bearing an interest of six per centum per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States, and copies of them, or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

ART. 12. The treaty of limits and navigation of 1795 remains confirmed in all and each one of its articles, excepting the second, third, fourth, twenty-first, and the second clause of the twenty-second article; which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the fifteenth article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this shall be so understood with respect to those Powers who recognise this principle. But, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

ART. 13. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their re-

spective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up at the instance of the Consul, who shall prove, nevertheless, that the deserters belong to the vessels that claim them, exhibiting the document that is customary in their nation; that is to say, the American Consul in a Spanish port shall exhibit the document known by the name of *artículos*, and the Spanish Consul in an American port the roll of the vessel; and if the name of the deserter or deserters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and be delivered to the vessel to which they shall belong.

ART. 14. The United States hereby certify that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same, in such manner as she may deem just and proper.

ART. 15. The present treaty shall be ratified, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, the underwritten Plenipotentiaries of the United States of America and of His Catholic Majesty have signed, by virtue of their powers, the present treaty of amity, settlement, and limits, and have thereunto affixed their seals, respectively.

Done at Washington, this — day of February, 1819.

† *Paper received by the Secretary of State from Mr. Hyde de Neuville, 16th February, 1819.*

*Remarks of the Chevalier de Onis.**Remarks of the Secretary of State.*

ART. 1. Agreed to.\*

ART. 2. Requires a more explicit explanation.\*

ART. 3. The Chevalier de Onis requires that the boundary between the two countries shall be the middle of the rivers, and that the navigation of the said rivers shall be common to both nations.

The Secretary of State maintains that the United States have always intended that the property of the river should belong to them. He insists on this point, as an essential condition, as the means of avoiding all collision, and as a prin-

† Mr. De Onis being at this time confined by indisposition, at his request Mr. Hyde de Neuville had a personal interview with the Secretary of State on the 15th of February, at which there was a full and free discussion of the projet of Mr. De Onis, delivered February 9th, and of the counter-projet communicated by him to Mr. De Onis, February 13th. Immediately after this interview, Mr. De Neuville reduced to writing this paper, in which are noted the objections of Mr. De Onis to parts of the counter-projet, the replies to those objections by the Secretary of State, and the points to which both parties were agreed. He sent a copy of the paper the next morning to the Secretary of State, and another copy to Mr. De Onis. Being intended merely as a private minute, that both parties might be satisfied of the correctness in which their respective remarks were stated, it was drawn up partly in French, and partly in our own language. The passages here marked with asterisks are in English in the original paper. The rest is translated.

The minutes upon the eighth article, compared with the draught in the projet of Mr. De Onis, with that of the counter-projet by the Secretary of State, and with the article as finally expressed in the treaty, fully elucidate the understanding of the parties that the grants of land dated before, as well as after the 24th January, 1818, were annulled, excepting those upon which settlements had been commenced, the completion of which had been prevented by the circumstances of Spain, and the recent revolutions in Europe.

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The Minister of Spain agrees to the one hundredth degree of longitude, and to remove all difficulties, to admit the forty-second instead of the forty-third degree of latitude, from the Arkansas to the Pacific ocean.

ART. 4. Agreed, as proposed by the Secretary of State.

ART. 5. Agreed.

ART. 6. Agreed.

ART. 7. Agreed, with the addition that the United States shall furnish transports and the necessary escort for conveying the aforesaid troops of His Catholic Majesty, and their baggage, to the Havana.\*

ART. 8. This article cannot be varied from what is contained in the Chevalier's projet, as the object of the last clause therein is merely to save the honor and dignity of the sovereignty of His Catholic Majesty.\*

REMARKS.—The Secretary of State observed to me that the Federal Government would most assuredly never entertain the idea of disturbing individuals who were vested with a *bona fide* title to their property; but, as a treaty ought not to cover fraudulent practices, so no more could be asked of the United States than could be offered by His Catholic Majesty; that, being in this case substituted for His Majesty, they would scrupulously fulfil their engagements; but that more could not be expected of them.

The Secretary of State even proposes, if Mr. De Onis wishes it, that the article shall be inserted in the treaty, as proposed by the Minister of Spain, on condition that the above explanation shall be given in the form of a note. The Federal Government, unwilling to leave anything in a state of doubt or uncertainty, only wishes to place on the most secure footing whatever is just and honorable, and is, at the same time, perfectly satisfied that His Catholic Majesty neither asks nor wishes more.

ART. 9. Mr. De Onis requires that the article should run thus:

"To all claims of citizens of the United States upon the Government of Spain arising from [un]lawful seizures at sea, and in the ports or territories of His Catholic Majesty in Spain or in his colonies."\*

And the high contracting parties respectively renounce all claims to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.\*

To the above claim Mr. De Onis adds that the United States will satisfy all the just claims which the inhabitants and Spanish officers of the Floridas may have upon them in consequence of the damages they may have sustained by the operations and proceedings of the American army, as is customary with the citizens of the United States under similar circumstances.\*

ART. 10. Agreed, as it is proposed by the Secretary of State.\*

ciple adopted henceforth by the Union in its treaties with its neighbors. He agrees, however, that the navigation of the said rivers to the sea shall be common to both people. The Secretary of State conceives that in this clause there is nothing humiliating to Spain, as seemed to be thought; since it is not intended to impose on her an onerous stipulation, but to fix a territorial limit, which, in fact, might be extended beyond the rivers mentioned. He considers this clause as indispensable, and as eminently calculated to preserve a good understanding between the two people.

Agreed.

Agreed.

Agreed, with the following explanation: that all grants of land which shall not be annulled by this convention are valid to the same extent as they are binding on His Catholic Majesty.\*

Agreed.\*

Agreed.\*

Agreed.\*

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ART. 11. The Chevalier desires that the stipulation of five millions of dollars contained in this article may be stricken out, for he is aware that the territories ceded are sufficient to pay triple that sum; and, by agreeing to that stipulation, it would appear that Spain, in consideration only of the said amount, has ceded the two Floridas and other territories, when she would not have ceded them for twenty millions were it not her desire to arrange and terminate all differences with the United States.

The remaining parts of this article are agreed to.\*

ARTS. 12, 13, 14, and 15. Agreed.\*

ART. 16.

REMARKS.—This article, which I have not before me, is I believe, that in which Mr. De Onis requires that American vessels shall only receive clearances for a specified port. It appears that this article cannot be assented to by the Federal Government, and is, therefore, as observed by Mr. Adams, wholly inadmissible in the present treaty.

ART. 17. Mr. De Onis requires that Spanish vessels shall be admitted for twelve years into all the ports of the ceded territories upon the same footing as the vessels of the United States.

2. That no nation shall enjoy the like privilege during the said term of twelve years.

3. That, at the expiration of the said term, Spanish vessels shall be received in said territories on the same footing as the most favored nations.

N. B. It is agreed by both parties that the articles stipulating the cession of the Floridas shall be so framed as to cover the honor of both countries, and prove that the treaty is an amicable transaction, divested of all mental reservations, disguise, or recrimination.

The writer of these hasty notes believes that he perfectly comprehended, and has faithfully stated, the conversation he had this morning with the Secretary of State.

He will be equally attentive in stating to-morrow the answer of the Minister of Spain. He flatters himself that all obstacles are nearly removed, and he deems it no small satisfaction in having been invited, by the confidence manifested in him by both parties, to co-operate, however feebly, in an event which cannot fail to have a powerful influence on the peace and happiness of both hemispheres.

G. H. DE N.

WASHINGTON, *February 15, 1819.*

*Mr. De Neuville to the Secretary of State.*

WASHINGTON, *February 16, 1819.*

Mr. De Neuville has the honor to present his respects to Mr. Adams, and to enclose the statement hastily drawn up by him yesterday evening. Mr. De Neuville believes he has omitted nothing of what Mr. Adams did him the honor to communicate to him. He will see Mr. De Onis to-day at one o'clock, and afterwards, that is, between two and three, he will call at the office of the Department, and hand to Mr. Adams the projet sent by him to Mr. De Onis. Mr. De N. hopes that Mr. De Onis will remove the remaining unimportant difficulties, for which nothing on the part of Mr. De N. will be omitted. He avails himself with pleasure of this occasion to offer to Mr. Adams the renewed assurances of his high consideration.

JAMES MONROE, *President of the United States of America, to all whom these presents shall concern, Greeting:*

Know ye, that I have given and granted, and do hereby give and grant, to John Quincy Adams, Secretary of State of the United States, full power and authority, and also a general and special command, to meet and confer with the Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty residing in the United States, being furnished with the like full powers of and concerning the limits between the territories of the United States and those of his said Catholic Majesty in North America, and any mutual cessions of part of the same; of and concerning all matters of difference between the said United States and His Catholic Majesty, and concerning the relations of navigation and commerce

\* The passages marked thus (\*) are in English in the paper received from Mr. De Neuville.



*Relations with Spain.*

between the said United States and His Catholic Majesty; and to conclude a treaty touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate thereof, if such advice and consent be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand at the City of [L. s.] Washington, the sixteenth day of February, A. D. 1819, and of the independence of the United States the forty-third.

JAMES MONROE.

By the President:

JOHN Q. ADAMS,  
*Secretary of State.*

*Full power of the King of Spain to Don Luis de Onis.*

Don Ferdinand, by the grace of God, King, &c., &c., &c., desiring to consolidate the friendship and good understanding which happily prevail between my kingdoms and the United States of America, through the mutual interests existing between the two Governments, and reposing full confidence in you, Don Luis de Onis, Knight of the royal and distinguished order of Charles III., and my Minister Plenipotentiary to the United States of America, by reason of your fidelity, distinguished zeal, and approved capacity, in the arduous concerns committed to you, have granted, and by these presents do grant, to you full power, in the most ample form, to treat, of yourself, and without other intermediate authority, with such person or persons as may be authorized by the President of the United States, and on the principles of the most perfect equality and fitness, to conclude and sign a treaty of amity, whereby past differences may be adjusted, and a firm and lasting peace established between the two Governments; obliging ourselves, as we do hereby oblige ourselves and promise, on the faith and word of a King, to approve, ratify, and fulfil, and to cause to be inviolably observed and fulfilled, whatsoever may be stipulated and signed by you; to which intent and purpose I grant you all authority and full power, in the most ample form, thereby and of right required.

In faith whereof, we have given command to issue the present, signed with our royal hand, sealed with our privy seal, and countersigned by our underwritten first Secretary of State, and of universal despatch.

Given at Madrid, the 10th day of September, 1816.

[L. s.]

FERDINAND.  
PEDRO CEVALLOS.

*Treaty of Amity, Settlement, and Limits, between the United States of America and His Catholic Majesty.*

The United States of America and His Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevail between the two

parties, have determined to settle and terminate all their differences and pretensions by a treaty, which shall designate, with precision, the limits of their respective bordering territories in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States, and His Catholic Majesty has appointed the most excellent Lord Don Luis de Onis Gonzales Lopez y Vara, Lord of the town of Rayaces, perpetual regidor of the corporation of the city of Salamanca, Knight grand cross of the royal American order of Isabella, the Catholic, decorated with the lys of La Vendée, knight-pensioner of the royal and distinguished order of Charles III., member of the supreme assembly of the said royal order, of the council of His Catholic Majesty, his secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and His Catholic Majesty and subjects, without exception of persons or places.

ART. 2. His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives, and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissioners or officers of the United States duly authorized to receive them.

ART. 3. The boundary line between the two countries west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea; continuing north, along the western bank of that river, to the thirty-second degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red river; then, following the course of the Rio Roxo, westward, to the degree of longitude one hundred west from London, and twenty-three from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas to its source, in latitude forty-two degrees north; and thence, by that parallel of latitude, to the South sea; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818. But if the source of the Arkansas river shall be found to fall north or south of lati-

*Relations with Spain.*

tude forty-two degrees, then the line shall run from the said source, due south or north, as the case may be, till it meets the said parallel of latitude of forty-two degrees; and thence, along the said parallel, to the South sea; all the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations. The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say: The United States hereby cede to His Catholic Majesty, and renounce forever, all the rights, claims, and pretensions, to the territories lying west and south of the above described line; and, in like manner, His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

ART. 4. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet, before the termination of one year from the date of the ratification of the treaty, at Natchitoches, on Red river, and proceed to run and mark the said line, from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated, and the line of latitude forty-two degrees, to the South sea; they shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also to their respective escorts, should such be deemed necessary.

ART. 5. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject, in either case, to duties.

ART. 6. The inhabitants of the territories which His Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.

ART. 7. The officers and troops of His Catholic Majesty in the territories hereby ceded by him to the United States shall be withdrawn, and

possession of the places occupied by them shall be given within six months after the exchange of the ratifications of this treaty, or sooner if possible, by the officers of His Catholic Majesty, to the commissioners or officers of the United States duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana.

ART. 8. All the grants of land made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited for the same, respectively, from the date of this treaty; in default of which the said grants shall be null and void. All grants made since the 24th day of January, 1818, when the first proposal, on the part of His Catholic Majesty, for the cession of the Floridas was made, are hereby declared and agreed to be null and void.

ART. 9. The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish forever to be maintained between them, reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this treaty.

The renunciation of the United States will extend—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans, in 1802.

4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and in the ports and territories of Spain or the Spanish colonies.

5. To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty.

The renunciation of His Catholic Majesty extends—

*Relations with Spain.*

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

4. To all claims of Spanish subjects upon the Government of the United States, arising from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.

Finally to all the claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic Majesty's Government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American army in Florida.

ART. 10. The convention entered into between the two Governments on the 11th of August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled.

ART. 11. The United States, exonerating Spain from all demands in future, on account of the claims of their citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate; which commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and in case of the death, sickness, or necessary absence of any such commissioner, his place may be supplied by the appointment as aforesaid, or by the President of the United States during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish Government shall furnish all such documents and elucidations

as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties, of 27th October, 1795; the said documents to be specified when demanded at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately at their Treasury, or by the creation of stock bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

ART. 12. The treaty of limits and navigation of 1795 remains confirmed in all and each one of its articles, excepting the second, third, fourth, and twenty-first, and the second clause of the twenty-second article, which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the fifteenth article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this shall be so understood with respect to those Powers who recognise this principle; but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Government acknowledges this principle, and not of others.

ART. 13. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up, at the instance of the consul, who shall prove, nevertheless, that the deserters belonged to the vessels that claimed them, exhibiting the document that is customary in their nation; that is to say, the American Consul in a Spanish port shall exhibit the document known by the name of *articles*, and the Spanish Consul in American ports the roll of the vessel; and if the name of the deserter or deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

ART. 14. The United States hereby certify that they have not received any compensation from

*Defeat of the Seminole Indians, &c.*

France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same in such manner as she may deem just and proper.

ART. 15. The United States, to give His Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor the commerce of the subjects of His Catholic Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States. During the said term, no other nation shall enjoy the same privileges within the ceded territories. The twelve years shall commence three months after the exchange of the ratifications of this treaty.

ART. 16. The present treaty shall be ratified, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the underwritten Plenipotentiaries of the United States of America and of His Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement, and limits, and have thereunto affixed our seals, respectively. Done at Washington, this twenty-second day of February, one thousand eight hundred and nineteen.

JOHN QUINCY ADAMS. [SEAL.]  
LUIS DE ONIS. [SEAL.]

*Resolution of the Senate advising ratification.*

IN SENATE OF THE UNITED STATES,  
February 24, 1819.

*Resolved*, (two-thirds of the Senators present concurring therein,) That the Senate do advise and consent to the ratification of the treaty of amity, settlement, and limits, made and concluded at Washington, on the 22d day of February, 1819, between the United States and His Catholic Majesty.

Attest: CHARLES CUTTS,  
Secretary.

*Ratification by the President of the United States.*

JAMES MONROE, *President of the United States of America: To all, and singular, who shall see these presents, greeting:*

Whereas a treaty of amity, settlement, and limits, between the United States of America and His Catholic Majesty, was concluded and signed between their plenipotentiaries in this city, on the twenty-second day of the present month of February, which treaty is word for word as

follows: [Here follows the treaty, as before.] And whereas the Senate of the United States, by their resolution of the twenty-fourth day of the same month, (two-thirds of the Senators then present concurring,) did advise and consent to the ratification of the said treaty:

Now, therefore, I, James Monroe, President of the United States of America, having seen and considered the treaty above recited, do, in pursuance of the aforesaid advice and consent of the Senate of the United States, by these presents accept, ratify, and confirm the said treaty, and every clause and article thereof, as the same are hereinbefore set forth.

In faith whereof, I have caused the seal of the United States to be hereto affixed. Given under my hand, at the City of Washington, [L. s.] this twenty-fifth day of February, in the year of our Lord, one thousand eight hundred and nineteen, and of the independence of the said States the forty-third.

JAMES MONROE.

DEFEAT OF THE SEMINOLE INDIANS—  
CAPTURE OF SPANISH POSTS IN FLORIDA—ARBUTHNOT AND AMBRISTER.

[Communicated to Congress, by the President of the United States, with his opening Message of the 17th of November, 1818.]

*Extract of a letter from R. Sands, commanding Fort Gaines, to the officer of Fort Hawkins, dated*

FEBRUARY 2, 1817.

When the Colonel, with the troops, left Fort Scott, he gave the buildings in charge of one of the Perrymans, from whom I have just received a letter, handed me by his brother, who arrived here after I had commenced writing this.

Perryman states in his letter that the Red Sticks, (or hostiles,) after we had left the fort, came in companies, and carried off everything we had left with him, and what he had purchased of Butler, burnt three houses, and threatened, if he did not leave the place, to burn it over his head. He got what few articles he could, with his family, in a canoe, and came to his brother's, who informs me that there is at present about three hundred Indians imbodyed at the Forks, and others constantly joining them. He does not know their intentions, but understood a party was going out to steal horses, &c.

This morning, (3d,) one of the settlers waited on me to advise in what manner to act, as eight or ten Indians had been at his house, and ordered him off; telling him that in six days they would come back, and, if he was not gone, they would drive him away.

*Extract of a letter from the Governor of Georgia to General Gaines, dated*

MILLEDGEVILLE, February 5, 1817.

You, no doubt, have already been informed that the notorious Woodbine has recently made

*Defeat of the Seminole Indians, &c.*

his appearance again at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostility against this country; and that Woodbine himself has gone in an armed vessel to some part of the West Indies for supplies. Connected with this fact is another, which may serve as an intimation of the future conduct of these people, when once in possession of the supplies which it is said they expect on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered the frontier of Wayne county, and stole two horses and some cattle. They were pursued by some of the inhabitants, who peaceably demanded a restoration of the stolen property; and, instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without returning a shot. One of the whites was mortally wounded.

*Copy of a letter from General Gaines to the Governor of Georgia, dated*

MILLEDGEVILLE, February 5, 1817.

I have the honor to acknowledge the receipt of your excellency's letter of this date.

The facts which you have been pleased to communicate, in relation to the late hostile conduct of the Seminole Indians, must and shall receive my immediate and particular attention. I am not authorized to change the destination of the 4th infantry, but, should I receive no authority to recall a part of that corps, I shall order one or two companies of artillery (to do duty as infantry) from Charleston to the southern frontier of this State, with instructions to check Indian hostilities, and at the same time to remove from Indian land such intruders as may remain, after being duly notified to remove.

*Extract of a letter from George Perryman to Lieutenant Sands, dated*

FEBRUARY 24, 1817.

The charge given me by Colonel Clinch and yourself, and other officers of the United States, induces me to believe there is a confidence placed in me which I ought not to deceive. I therefore think it my duty, as well as my inclination, to give you the following information:

There was a friend of mine not long since in the Fowltown, on Flint, and he saw many horses, cattle, and hogs, that had come immediately from the State of Georgia, and they are bringing them away continually. They speak in the most contemptuous manner of the Americans, and threaten to have satisfaction for what has been done—meaning the destruction of the negro fort. There is another of my acquaintances returned immediately from the Seminole towns, and saw the negroes on parade there. He counted about six hundred that bore arms. They have chosen officers of every description, and endeavor to keep up a regular discipline, and are very strict in punishing violators of their military rules. There is

said to be about the same number of Indians belonging to their party, and there are both negroes and Indians daily going to their standard. They say they are in complete fix for fighting, and wish an engagement with the Americans, or McIntosh's troops; they would let them know they had something more to do than they had at Appalachicola. They have chosen Bowlegs for their head, and nominated him King, and pay him all kind of monarchical respect, almost to idolatry, keeping a picket guard at the distance of five miles. They have a number of the likeliest American horses; but there are one or two chiefs who are not of the choir. Kenhijah, the Missioukey chief, is one that is an exception.

*Copy of a letter from Archibald Clarke, Intendant, St. Mary's, Georgia, to General Gaines, dated*

FEBRUARY 26, 1817.

SIR: In consequence of a recent and most obnoxious act perpetrated by a party of Indians, (supposed to be of the Lower Creeks,) in this county, in the murder of an unfortunate white woman and her two infant children, by which the defenceless inhabitants on our frontier have been thrown into a distressing state of alarm, I avail myself of the earliest opportunity in giving information that may be relied on, under the fullest assurance that immediate measures will be adopted to guard and prevent a repetition of such cruel and barbarous acts.

On the 24th instant, the house of a Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, was attacked during his absence, near the middle of the day, by this party, consisting of about fifteen, who shot Mrs. Garret in two places, and then despatched her by stabbing and scalping. Her two children (one about three years, the other two months) were also murdered, and the eldest scalped. The house was then plundered of every article of value, and set on fire. A young man in this neighborhood, hearing the report of guns, went immediately towards the house, where he discovered the murdered family. The flames having only commenced, they were extinguished, and he spread the alarm. The workmen from my mills and a few others assembled to pursue; but, having but few arms, and not otherwise equipped, their pursuit proved fruitless. The Indians were attacked as far as the men dared venture. Their course was parallel with the western branch of Spanish creek, which induces the belief of their being Indians of the lower tribes.

On this open, extensive, and entirely unprotected frontier, the poor and innocent inhabitants have ever been exposed to these calamities. Representation after representation to the several Governors of this State, of cruel and unprovoked murders in this quarter by the Indians, have been made. A momentary disposition was manifested to afford relief; but a little time, however, would elapse before the alarm would subside, and the subject never more thought of, until again revived by an occurrence such as I have just related.

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To you, sir, therefore, the inhabitants on the frontier, as well as others, through me, appeal for some protection. A small detachment of troops upon the head of the St. Mary's would answer a most valuable purpose, by at once checking the inroads of the savages, and preventing our abandoned and unprotected citizens from adventuring into the Indian country, and driving in herds of cattle.

*Copy of a letter from R. Arbuthnot to the officer commanding at Fort Gaines, dated*

OKOLOKNE SOUND, March 3, 1817.

SIR: I am desired by Peter McQueen, an unfortunate Indian chief, who was some years since obliged to fly from the town of Tucky Batche, on the Tallapoohatch river, to claim of your friendship the delivery of a negro man named Joe, (taken away from him since the peace,) whom he stated to be in Fort Gaines. When McQueen left Tucky Batche, his property was considerable, both in negroes and cattle; of the former, ten grown negroes were taken by a half-breed man named Barney, nine of which, he learns, were sold, and one (a girl) is still in possession of said Barney. Twenty able negroes were taken by a chief named Colonel, or Auchi Hatche, who acts also as an interpreter; and as he never had possession of any of those persons' property, nor ever did them an injury to his knowledge, he claims, as a further proof of your friendship, that you will use your influence in procuring those negroes for him; and, should they be given up by the persons holding them, there is one faithful negro among them, named Charles, who will bring them to him at Okolokne river.

The American headmen and officers that were accustomed to live near him can testify to his civility and good fellowship with them, and there are none of them, he is convinced, that would not serve him if in their power. As he owes nothing, nor ever took any person's property, none have a right to retain his; and he hopes that, through your influence, those persons now holding his negroes will be induced to give them up.

While I am thus advocating the cause of an unfortunate individual, allow me to claim an extension of your philanthropy to all the Indians within your circle, by your representing to them the folly of their quarrels, and that they ought to live quietly and peaceably with each other.

The Lower Creeks seem to wish to live peaceably and quietly, and in good friendship with the others; but there are some designing and evil-minded persons, self-interested, who are endeavoring to create quarrels between the Upper and Lower Creek Indians, contrary to their interest, their happiness, and welfare. Such people belong to no nation, and ought not to be countenanced by any Government.

The head chiefs request I will inquire of you why American settlers are descending the Chatahoochee, driving the poor Indian from his habitation, and taking possession of his home and cultivated fields?

Without authority, I can claim nothing of you; but a humane and philanthropic spirit guiding me, I hope the same will influence you; and if such is really the case, and that the line marked out by the treaty between Great Britain and the United States respecting the Indian nations has been infringed upon by the subjects of the latter, that you will represent to them their improper conduct, and prevent its continuance.

I hold in my possession a letter received from the Governor of New Providence, addressed to him by His Britannic Majesty's chief Secretary, informing him of the orders given to the British Ambassador at Washington, to watch over the interests of the Indian nations, and see that their rights are faithfully attended to and protected, agreeably to the treaty of peace made between the British and Americans.

I am in hopes that ere this there is arrived at New Providence a person from Great Britain with authority to act as agent for the Indian nation; and, if so, it will devolve on him to see that the boundary lines, as marked out by the treaty, are not infringed upon.

I hope you will not think these observations, made by desire of the chiefs, any improper interference, and requesting the favor of an answer, I am, respectfully, &c.

P. S. McQueen states that the offspring of the negroes, when he left Tucky Batche, were seven of those taken by Barney, and nine of those taken by Auchi Hatche, and he supposes they have increased.

*Copy of a letter from Lieutenant Richard M. Sands, fourth infantry, commanding at Fort Gaines, Georgia, to Colonel William King, or officer commanding the fourth regiment of infantry, dated*

MARCH 15, 1817.

SIR: I enclose for your information two letters which I received a few days since. Yesterday, William Perryman, accompanied by two of the lower chiefs, arrived here. He informs me that McQueen, the chief mentioned in one of the enclosed letters, is at present one of the heads of the hostiles; that they are anxious for war, and have lately murdered a woman and two children. He likewise says that he expects the news in George Perryman's letter is true; for there are talks going through the towns that the English are to be at Okoloking river in three months.

I have sent an Indian runner to Okoloking, to ascertain what preparations the hostiles are making. I have the honor to be, &c.

*Extract of a letter from David B. Mitchell, Indian agent to the Secretary of War, dated*

MILLEDGEVILLE, GEORGIA,

March 30, 1817.

By yesterday's mail I received a letter from Mr. Timothy Barnard, who resides on Flint river, in the Indian country, a considerable distance below the agency, in which he observes: "I have been informed two days past, from below, where

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the Red Stick class reside; that a party has been down near St. Mary's, and murdered a woman and two children, and brought off some horses. I have heard for some time past that the Red Stick party have commenced their Red Stick dancings again, which is a proof that they mean to commence hostilities. Our forts, Crawford and Gaines, having been evacuated, I believe, has been the cause of the Red Stick class beginning again to commence hostilities. They think that our troops were afraid to continue there."

The murder of the woman and two children, spoken of by Mr. Barnard, had been previously communicated to me by the magistrates of Camden county; and I have no doubt but it was perpetrated in retaliation for the killing of an Indian about three or four weeks previous, on the Florida side of the St. Mary's river, by some worthless white men who reside on the frontiers of East Florida, and who live by plunder. They have for some time past been a perfect nuisance to the frontier of Georgia in that quarter; and although repeated complaints of their bad conduct have been made to the Governor of the province, yet, either from the want of ability or inclination, they have not been suppressed; but I believe that their impunity is attributable to the first, viz: inability on his part to apprehend and punish them.

The single fact of this murder being easily accounted for on the Indian principle of retaliation, I should dread no further bad consequences from it; but the other facts stated by Mr. Barnard can only be attributed to a settled plan of hostility on the part of the Indians, and that such a disposition has been encouraged by the removal of the troops from Camp Crawford. And I have the more reliance upon the intelligence as coming from Mr. Barnard, who has resided nearly fifty years in the Indian country, and is perfectly well acquainted with their habits and customs, and whose family connexion gives him the best and surest means of correct information.

As an additional inducement to this measure, I will further state that I have received information from other persons at and near Fort Gaines, that a British agent is now among these hostile Indians, and that he has been sending insolent messages to the friendly Indians and white men settled above the Spanish line. He is also charged with stimulating the Indians to their present hostile aspect; but, whether he is an acknowledged agent of any foreign Power, or a mere adventurer, I do not pretend to determine, but am disposed to believe him the latter. But be that as it may, and let the hostile disposition of the Indians proceed from what it may, a moderate regular force stationed at Camp Crawford, or any other suitable position in that quarter, will I am confident keep all quiet, and without it some serious mischief will result.

*Extract—Gen. Gaines to the Secretary of War.*

CAMP MONTGOMERY, M. T., April 3, 1817.

I received by the last mail a letter from Archi-

bald Clarke, Esq., intendant of the town of St. Mary's, by which it appears that another outrage of uncommon cruelty has recently been perpetrated by a party of Indians upon the Southern frontier, near the boundary of Wayne county. They have massacred a woman (Mrs. Garrett) and two of her children; the mother and eldest child were scalped, the house plundered and burnt.

MONTGOMERY, April 3, 1817.

SIR: The enclosed letter contains some additional information upon the subject of my communication of this date.

Most respectfully, &c.

EDMUND P. GAINES.

HON. SECRETARY OF WAR.

FORT GAINES.

GENERAL GAINES: I am requested by all the citizens to inform you of our situation, believing that no communication has been forwarded giving a detail of the information received, our distress, and the prospect of approaching destruction.

We are hourly told, by every source of information, by the friendly Indians, by letters from William Hambly and Edmund Doyle, who reside low down on the Appalachicola, that all the lower tribes of Indians are imbedded, and are drying their meats to come on to the attack of this post. The British agent at Oaklockines Sound is giving presents to the Indians. We have among us Indians who have been down, and received powder, lead, tomahawks, knives, and a drum for each town, with the royal coat of arms painted on it. We have, at this time, at least five hundred Indians skulking in this neighborhood, within three or four miles of us, who will not act for themselves, and who are evidently waiting the signal to strike an effectual blow. They have stolen almost every horse belonging to the citizens. They have scared them from the fields which they have cleared, and have taken possession of their houses. They are now stealing horses, cattle, and hogs, from the Georgia lines, and have killed one or two families on the St. Tillas.

The citizens have all assembled near the fort, not able to return to the States, nor no prospect of making crops. The Indians have all returned to their towns below the line, and this post is unable to remove them. The troops are scarce of provisions, and no prospect of the early arrival of more.

Nothing but speedy relief, by troops, can quiet the people, or save this country from destruction.

Respectfully, yours, &c.

A. CULLOH.

*Copy of a letter from G. Leftwich, adjutant seventh infantry, to General Gaines, dated*

CAMP MONTGOMERY, M. T.,

July 28, 1817.

SIR: Agreeably to your instructions of the 26th instant, I proceeded to the Burnt Corn spring,

*Defeat of the Seminole Indians, &c.*

near the place where the recent murder was committed by an Indian; and, from the best information received, I have the honor to make the following report:

1. It does not appear that any misunderstanding existed between the Indians and the citizen killed, (Mr. Glass.)

2. It appears that the Indians made the first assault, and that without any provocation on the part of the citizens.

3. From the information received, it appears that Mr. Glass heard four or five guns fire some short distance from his house. He was under the impression that the Indians were doing some mischief, and went out for the purpose of ascertaining what the firing was at. He had proceeded but a short distance when he discovered an Indian woman; he went towards her, and inquired if she knew who it was that was shooting; she made him no answer; he asked her several times, and received no answer. She said something, and an Indian that was concealed in the bushes, not more than fifteen steps from Mr. Glass, rose up and shot him through the body. He snapped his gun at the Indian, who immediately ran off. He then fired at the woman as she was running after the man, but does not know whether he killed her or not. His wound being very painful, he dropped his gun and shot-bag, and attempted to return home. He had not proceeded more than three hundred yards when he fainted, and remained until found by a traveller. This was on Saturday, and he died Sunday morning, leaving a widow and eight children to lament his untimely death. He was a man who supported a good character in his neighborhood, though in limited circumstances. On the following day there was a cow found near the place where Mr. Glass was shot, with four balls shot through her.

4. There was only one Indian man seen by Mr. Glass; but from the circumstances of his hearing four guns, and the cow being found near that place with four balls shot through her, induces a belief that he had several companions with him, although they were not seen by Mr. Glass. From the report of the friendly Indians, it is believed they are fifty or sixty in number, and that they have returned to the camp on Pine Barren creek, occupied by them at the time they murdered Johnson and Magasky, as a part of them were met by several persons near the Pine Barren spring a few days after the murder was committed.

Colonel Dale's party pursued them to their camp on the Sappalagos, but found it deserted apparently several days. They have several small fields of corn growing at the place. From the sign left, it is believed they have a number of horses, and some of the largest description. The Indian who acted as guide states they have at this time a negro boy and a horse belonging to Johnson and Magasky. It appears to be the prevailing opinion among the inhabitants that they may be found on Pine Barren creek.

I have the honor to be, sir, your most obedient servant.

*Extract of a letter from General Gaines to the Secretary of War, dated*

CAMP MONTGOMERY, M. T.,

August 25, 1817.

Having received several communications from persons settled upon the public land, within the tract acquired by the treaty at Fort Jackson, containing general accusations against the Indians; that they had killed cattle and hogs, and stolen corn, &c., from the inhabitants, and requesting the interposition of military authority, I have uniformly referred them to the civil magistrates, because I have in no instance during the present year heard of anything like an assemblage of force among the Indians in this part of the Territory. Nor could I see any reason why persons who had obtruded themselves upon the public land, and contrary to law, should be allowed military protection against the petty offences of which these people complained, especially as it did not appear that the civil authority had been opposed nor even resorted to by the complainants.

The enclosure, marked A, contains a copy of, my reply to the inhabitants of Murder Creek, and in this you will find the substance of my other replies, both written and verbal. Since the date of this reply, and, as I have reason to believe, some days after it reached the settlement of Murder Creek, a Mr. Glass, near that place, was killed by an Indian, who was said to be accompanied by three others.

On receiving this information, I immediately despatched a discreet officer, Lieutenant Leftwich, to ascertain the particulars of the outrage, with a view to send a party in pursuit of the offenders, in case they should not have been arrested by the civil authority.

A.

*To the inhabitants of Murder Creek, Alabama Territory.*

HEADQ'RS, CAMP MONTGOMERY, M. T.,

July 12, 1817.

GENTLEMEN: I have received your communication of the 21st of last month, stating that the Indians residing upon the Conaka had killed cattle and hogs belonging to the inhabitants of Murder Creek, and had broke into their houses, and taken from them some provisions, corn, &c.

In reply, I have to observe, that all Indians within the lately acquired territory are amenable to our laws, and may be prosecuted for the offences of which you complain, in the same manner as if they were white inhabitants.

The lands cultivated by friendly Indians within the ceded territory have been reserved and guarantied to them by treaty; and by a late act of Congress, the agent of Indian affairs has been authorized to settle the respective claims to such reservations. Until this is effected, there exists no where any sort of authority to drive off such Indians settled upon the public land.

Governor Mitchell, the agent, will in a short time enter upon the examination and adjustment of those claims.



*Defeat of the Seminole Indians, &c.*

The disposition which you have manifested to abstain from\* "rash measures" towards those Indians, affords ground to hope that, viewing them as a part of the human family, possessing the right of residing among us, you will make allowance for their ignorance and their wants, which are calculated rather to awaken our commiseration than to excite in us a spirit of hostility towards them.

That you may have peace and prosperity throughout your settlement, is the sincere wish of your obedient servant,

EDMUND P. GAINES.

*Extract of a letter from Major Twiggs to General Gaines, dated*

FORT SCOTT, September 17, 1817.

Your communication to the Indians on the east side of Flint river was read and explained to the principal chief of the Mickasukies, the 6th of this month. He promised to give an answer in ten days at furthest. I have detained the express until this time, in expectation of sending it on by him, but have been disappointed. I have not heard from them since. The interpreter informed me the principal warriors were absent when he was there, but what were present said they never heard of Indians being given up to be punished by the whites; that they had heard of their being sometimes killed by themselves, for offences committed, but seemed to think that giving them up was out of the question; but said they would have a meeting, and would answer the letter in a few days. As they have not done so, I think but one construction can be put on their conduct. The young seemed to dislike the communication very much; and when Gregory was about leaving the town, he offered his hand to an Indian, who held out his with a knife in it, and refused to shake hands with him. He said so short a time among them, that it was impossible for him to give much information respecting them. Captain Donoho has returned; he has been sick in Harford, which was the cause of his delay. On his return the Indians were very rude to him, and frequently threatened his guide, and once caught hold of the Captain's bridle in a threatening manner.

*Extract of a letter from General Gaines to the Secretary of War, dated*

CAMP MONTGOMERY, M. T.,  
October 1, 1817.

I have the honor to lay before you a copy of a letter which I have received from the chiefs of ten of the Seminole towns, in reply to my demand for the delivery of the murderers of our citizens.

By this communication it appears that, instead of a compliance with my demand, the chiefs have set up a claim against us for the lives of three Indians, for whom they allege they have not yet

taken satisfaction. They charge us with having killed ten of their warriors, and, claiming a balance of three to be due them, they admit, by necessary implication, that they have killed seven of our citizens.

They acknowledge the murder of a woman (Mrs. Garret) and her two children. But the chiefs attempt to justify this act upon the ground that the warriors who committed the outrage had just before lost some friends; had entered our settlements to take satisfaction; found at the house of Garret a kettle belonging to the Indians who had been killed, and from this circumstance supposed the murder had been committed by the "husband of the woman;" they therefore killed her and her two children!

By a letter from Major Twiggs, the commandant of Fort Scott, I learn that he had been warned, some weeks past, by the principal chiefs of the Fowltown, (fifteen miles above the fort, and twenty above the national boundary,) not to cut another stick on the east side of the Flint river; adding, that the land was his, and he was directed by the Powers above to protect and defend it, and should do so; and it would be seen talking could not frighten him. Major Twiggs adds, he had not seen the chief, nor any of his people, since he made this threat. The Major states, in another letter, that this town had been detected in stealing one hundred head of cattle in one drove, all of which they had killed.

*Major Twiggs to General Gaines, dated*

FORT SCOTT, September 18, 1817.

Since I started the express this morning, the Indians have delivered the enclosed letter to me.

I have the honor to be, &c.

*To the commanding officer at Fort Hawkins.*

SEPTEMBER, the 11th day, 1817.

DEAR SIR: Since the last war, after you sent word we must quit the war, we, the red people, have come over on this side. The white people have carried all the red people's cattle off. After the war, I sent to all my people to let white people alone, and stay on this side of the river and they did so; but the white people still continue to carry off their cattle. Barnard's son was here, and I inquired of him what was to be done; and he said we must go to the head man of the white people, and complain. I did so, and there was no head white man, and there was no law in this case. The whites first began, and there is nothing said about that, but great complaint made about what the Indians do. This is now three years since the white people killed three Indians. Since that they have killed three other Indians, and taken their horses, and what they had; and this Summer they killed three more; and very lately they killed one more. We sent word to the white people that these murders were done, and the answer was, that they were people that were outlaws, and we ought to go and kill them. The white people killed our people first, the Indians then took satisfaction. There are yet three

\* The inhabitants promised not to resort to "rash measures."

*Defeat of the Seminole Indians, &c.*

men that the red people have never taken satisfaction for. You have wrote that there were houses burnt, but we know of no such thing being done; the truth, in such cases, ought to be told; but this appears otherwise. On that side of the river the white people have killed five Indians; but there is nothing said about that, and all that the Indians have done is brought up. All the mischief the white people have done ought to be told to their head man. When there is anything done you write to us, but never write to your head man what the white people do. When the red people send talks, or write, they always send the truth. You have sent to us for your horses, and we sent all that we could find; but there were some dead; it appears that all the mischief is laid on this town, but all the mischief that has been done by this town is two horses; one of them is dead, and the other was sent back. The cattle that we were accused of taking, were cattle that the white people took from us; our young men went out and brought them back, with the same marks and brands. There were some of our young men out hunting, and they were killed; others went to take satisfaction, and the kettle of one of the men that was killed was found in the house where the woman and two children were killed; and they supposed it had been her husband who had killed the Indians, and took their satisfaction there. We are accused of killing up Americans, and so on; but since the word was sent to us that peace was made, we stay steady at home, and meddle with no person. You have sent to us respecting the black people on the Suwanee river; we have nothing to do with them. They were put there by the English, and to them you ought to apply for anything about them. We do not wish our country desolated by an army passing through it, for the concern of other people. The Indians have slaves there also—a great many of them. When we have an opportunity we shall apply to the English for them, but we cannot get them now. This is what we have to say at present.

Sir, I conclude by subscribing myself, &c.

P. S. There are ten towns have read this letter, and this is the answer.

*Extract of a letter from George Graham, acting Secretary of War, to Brevet Major General Edmund P. Gaines, Fort Hawkins, Georgia, dated*  
OCTOBER 30, 1817.

I have the honor to acknowledge the receipt of your letter of the 1st instant, covering a copy of the reply which was made by ten of the Seminole towns, to the demand made by you on them for the surrender of the murderers of some of our citizens.

These papers have been submitted to the President, and I am instructed by him to inform you that he approves of the movement of the troops from Fort Montgomery to Fort Scott; the appearance of this additional force, he flatters himself, will at least have the effect of restraining the Seminoles from committing further depreda-

tions, and perhaps of inducing them to make reparation for the murders which they have committed. Should they, however, persevere in their refusal to make such reparation, it is the wish of the President that you should not, on that account, pass the line, and make an attack upon them within the limits of Florida, until you shall have received instructions from this Department.

You are authorized to remove the Indians still remaining on the lands ceded by the treaty made by General Jackson with the Creeks; and, in doing so, it may be proper to retain some of them as hostages until reparation may be made for the depredations which have been committed. On this subject, however, as well as to the manner of removing them, you will exercise your discretion. McIntosh, and the other chiefs of the Creek nation, who were here some time since, expressed then, decidedly, their unwillingness to permit any of the hostile Indians to return to their nation.

P. S. The authority to remove the Indians will, of course, not extend to those Indians and their families who have claims to reservations of lands under the treaty.

*Extract of letter from General Gaines to the Secretary of War.*

CHATAHOOCHEE, November 9, 1817.

From various reports from the Seminole Indians I can only learn that they are determined to deliver up none of their offenders; nor will they restore stolen property, except one town, the Mickasukees, the chief of which professes to be friendly. By the enclosed letter from Major Twiggs it appears that they are determined to attack us as soon as we pass Flint river; and that they have two thousand seven hundred warriors. Although I feel little faith in their threats, and believe their numbers to be overrated, yet I deem it proper to be provided with additional force. I have therefore requested of his excellency the Governor of Georgia a regiment of infantry and a squadron of cavalry, which, he has informed me, are held in readiness to march.

*Extract of a letter from General Edmund P. Gaines to Major General Andrew Jackson.*

HEADQ'RS, FORT GAINES, GEORGIA,  
November 9, 1817.

Previous to my leaving the Coroka I ascertained that the accounts I had received respecting the Seminole Indians being at Pensacola were incorrect, and that the number of Indians of different tribes there did not exceed what had been usual at this season of the year. This statement was soon after confirmed by Mr. Denson and the interpreter Cornels. The latter, however, states that he had seen and conversed with the hostile party of Ochu warriors, part of whom killed Johnston, and Magasky, and Mr. Glass. They now consist of about thirty warriors, or thirty-five. They were, a few days past, at the mouth of Yellow Water; had several stolen horses

*Defeat of the Seminole Indians, &c.*

which they offered for sale, and declared their determination to be always hostile towards our citizens.

From Major Twiggs I learn that he has received information, upon which he places reliance, that the Indians have recently had a meeting at the Mickasukee town, of near two thousand seven hundred warriors, when it was determined they would attack us as soon as we should cross the Flint river. Although I put little faith in these threats, and believe their numbers to be overrated, yet I deem it proper, keeping an eye to the safe side, to be provided with additional force; and have therefore desired the Governor of Georgia to send me the regiment of infantry and squadron of cavalry held in readiness for that purpose: for, in a war with savages, I think little should be hazarded; as every little advantage which we suffer them to acquire tends to add, in an extraordinary degree, to their strength and confidence.

*Extract of a letter from General Gaines to Major General Andrew Jackson.*

FORT SCOTT, GEORGIA,  
November 21, 1817.

The first brigade arrived at this place on the 19th instant. I had previously sent an Indian runner to notify the first town chief, E-me-hemaut-by, of my arrival, and with a view to ascertain whether his hostile temper had abated, requested him to visit me. He replied, that he had already said to the commanding officer here all he had to say, and he would not come.

He had warned Major Twiggs not to cross or cut a stick of wood on the east side of Flint river, alleging that the land was his; that he was directed, by the Powers above and below, to protect and defend it, and should do so. This being the talk referred to, and his town having continued to be hostile ever since the last war, having participated, as the friendly Indians assert, in the predatory war carried on for some time past against the Georgia frontier, I yesterday detached two hundred and fifty men, (supposed to be about the strength of the town,) under the command of Major Twiggs, with orders to bring me the chief and warriors, and, in the event of resistance, to treat them as enemies.

The detachment arrived at the town early this morning, and were instantly fired upon, but without effect. The fire was briskly returned by the detachment, and the Indians put to flight, with the loss of four warriors slain; and, as there is reason to believe, many were wounded.

It is with deep regret I have to add, that a woman was accidentally shot, with some warriors, in the act of forcing their way through our line, formed for the purpose of arresting their flight. The unfortunate woman had a blanket fastened around her, (as many of the warriors had,) which, amidst the smoke in which they were enveloped, rendered it impossible, as I am assured by the officers present, to distinguish her from the warriors.

Among the articles found in the house of the chief, was a British uniform coat, (scarlet,) with a pair of gold epaulettes, and a certificate signed by a British captain of marines, "Robert White, in the absence of Colonel Nicholls," stating that the chief had always been a true and faithful friend to the British.

The reports of friendly Indians concur in estimating the number of hostile warriors, including the Red Sticks and Seminoles, at more than two thousand, besides the blacks, amounting to near four hundred men, and increasing by runaways from Georgia. They have been promised, as several Indians inform me, assistance from the British at New Providence. This promise, though made by Woodbine, is relied on by most of the Seminole Indians. I have not a doubt but they will sue for peace, as soon as they find their hopes of British aid to be without foundation.

*Extract of a letter from General Gaines to the Secretary of War.*

FORT SCOTT, GEORGIA,  
November 26, 1817.

With a view to ascertain the strength of the hostile Indians in the vicinity of Fowl Town, and to reconnoitre the adjacent country, I, a few days past, detached Lieutenant Colonel Arbuckle, with three hundred officers and men. The colonel reports that the Indians had placed themselves in a swamp, out of which about sixty warriors made their appearance near the town, and, with the war-whoop, commenced a brisk fire upon our troops, which they returned in a spirited manner. The fire continued but fifteen or twenty minutes, when the Indians were silenced, and retired into the swamp, with a loss, which the colonel estimates at six or eight killed, and a greater number wounded. We had one man killed, and two wounded.

DEPARTMENT OF WAR, Dec. 2, 1817.

SIR: Your letter of the 9th ult. advising of the call on the Governor of Georgia to assemble the auxiliary force, which had been previously required by you, at Fort Hawkins, on the 25th ultimo, has been received.

It is hoped that the letter addressed to you from this Department, on the 30th of October, will have been received, and that you will confine your operations to the objects stated in that communication, and to such a disposition of the regular force under your command as will deter the Seminole Indians from making further depredations on the frontiers of Georgia.

The state of our negotiations with Spain, and the temper manifested by the principal European Powers, make it impolitic, in the opinion of the President, to move a force at this time, into the Spanish possessions, for the mere purpose of chastising the Seminoles for depredations which have heretofore been committed by them.

I have the honor to be, &c.

GEO. GRAHAM.  
Major Gen. EDMUND P. GAINES.

*Defeat of the Seminole Indians, &c.**General Gaines to the Secretary of War.*HEADQ'RS, FORT SCOTT, GEORGIA,  
December 2, 1817.

SIR: I had the honor to receive, on the 26th ultimo, your communication of the 30th October. I am very happy to find that the President approves of my movement. But I much regret that his just expectations, as to the effect there was reason to believe would be produced on the minds of the Indians, by this movement, have not been realized. I am now quite convinced that the hostility of these Indians is, and has long since been, of so deep a character, as to leave no ground to calculate upon tranquillity, or the future security of our frontier settlements, until the towns south and east of this place shall receive a signal proof of ability and willingness to retaliate for every outrage. It is now my painful duty to report an affair of a more serious and decisive nature than has heretofore occurred, and which leaves no doubt of the necessity of an immediate application of force and active measures on our part. A large party of Seminole Indians, on the 30th ultimo, formed in ambuscade, upon the Appalachicola river, a mile below the junction of the Flint and Chatahoochee, attacked one of our boats, ascending the river near the shore, and killed, wounded, and took, the greater part of the detachment, consisting of forty men, commanded by Lieutenant R. W. Scott of the 7th infantry. There were also on board, killed or taken, seven women, the wives of soldiers. Six men of the detachment only escaped, four of whom were wounded. They report that the strength of the current, at the point of attack, had obliged the lieutenant to keep his boat near the shore; that the Indians had formed along the bank of the river, and were not discovered until their fire commenced; in the first volley of which Lieutenant Scott and his most valuable men fell. The lieutenant and his party had been sent from this place, some days before, to assist Major Muhlenburg in ascending the river with three vessels laden with military stores, brought from Montgomery and Mobile. The Major, instead of retaining the party to assist him, as I had advised, (see the enclosure No. 1,) retained only about twenty men; and, in their place, put a like number of sick, with the women, and some regimental clothing. The boat thus laden was detached alone for this place. It is due to Major Muhlenburg to observe, that, at the time he detached the boat, I have reason to believe, he was not apprized of any recent hostilities having taken place in this quarter. It appears, however, from Lieutenant Scott's letter, received about the hour he was attacked, (enclosure No. 2,) that he had been warned of the danger. Upon the receipt of this letter, I had two boats filled up with covers, and with port-holes for defence; and detached Capt. Clinch, with an officer and forty men, with an order to secure the movement of Lieut. Scott, and then to assist Major Muhlenburg; this detachment embarked late in the evening of the 30th, and must have passed the scene of action below at night,

and some hours after the affair terminated. I have not yet heard from Captain Clinch; I shall immediately strengthen the detachment under Major Muhlenburg with another boat secured against the enemy's fire. He will, therefore, move up with safety, keeping near the middle of the river; I shall, moreover, take a position, with my principal force, at the junction of the rivers, near the line; and shall attack any force that may attempt to intercept our vessels and supplies below; as I feel persuaded the order of the President, prohibiting an attack upon the Indians below the line, has reference only to the past, and not to the present or future outrages, such as the one just now perpetrated, and such as shall place our troops strictly within the pale of natural law, when self defence is sanctioned by the privilege of self preservation. The wounded men who made their escape concur in the opinion, that they had seen upwards of five hundred hostile Indian warriors at different places below the point of attack; of the force engaged, they differ in opinion, but all agree that the number was very considerable, extending about one hundred and fifty yards along the shore, in the edge of a swamp or thick woods. I am assured by the friendly chief, that the hostile warriors of every town upon the Chatahoochee prepared canoes and pushed off down the river to join the Seminoles, as soon as the account of my movement from the Alabama reached them.

The Indians, now remaining upon the Chatahoochee, I have reason to believe, are well disposed. One of the new settlers, however, has recently been killed; but it has been clearly proved that the murderer had belonged to the hostile party. The friendly chiefs in the neighborhood, when apprized of the murder, assembled a party and sent in pursuit of the offender; and followed him to Flint river, on the route to Mickasukee, whither he escaped. Orrishajo, and several other friendly chiefs, have offered me their services, with their warriors, to go against the Seminoles. I have promised to give them notice of the time that may be fixed for my departure, and then to accept their services. The enclosure (No 3) contains the substance of what I have said to the chiefs who have visited me, several of whom reside south of the Spanish line and west of the Appalachicola river. It was expected by the chiefs, that I should communicate to them my views and wishes. I felt authorized to say but little, and I deemed it necessary, in what I should say, to endeavor to counteract the erroneous impressions by which they have been misled by pretended British agents. I hope the President will see, in what I have said, nothing to disapprove. I feel persuaded a report of the various talks, which I received from the chiefs, would show the propriety of what I have said to them; such a report I have not a moment's time now to make. The Indians are, at this moment, firing at our camp from the opposite line of the river. I have the honor to be, &c.

EDMUND P. GAINES,  
Maj. Gen. by Brevet, commanding.

*Defeat of the Seminole Indians, &c.*

No. 1.

*General Gaines to Major Muhlenburg.*

FORT SCOTT, Nov. 1817.

SIR: The waters having risen sufficiently high to enable you to ascend the river with all the vessels, I wish you to do so, though it should take longer than I had anticipated. You can avail yourself of the aid of Lieutenant Scott's detachment to expedite your movements hither. Keep your vessels near to each other; and should you meet with any insuperable obstacle, endeavor to apprise me thereof, and you shall have additional relief. Wishing to see you soon with your fleet, I remain yours, &c. E. P. GAINES.

SPANISH BLUFF, Nov. 28, 1817.

SIR: Enclosed you will receive Major Muhlenburg's communication, which he directs me to forward to you by express from this place. Mr. Hambly informs me that Indians are assembling at the junction of the river, where they intend to make a stand against those vessels coming up the river; should this be the case, I am not able to make a stand against them. My command does not exceed forty men, and one half sick, and without arms. I leave this immediately. I am, &c.

R. W. SCOTT,  
Lieutenant 7th Infantry.

NOTE.—The bearer of this is entitled to three dollars on delivering this letter. The Indians have a report here that the Indians have beaten the white people.

CHIEFS AND WARRIORS: The President of the United States has been informed of the murders and thefts committed by the hostile Indians in this part of the country. He has authorized General Jackson to arrest the offenders, and cause justice to be done. The Indians have been required to deliver up the murderers of our citizens, and the stolen property, but they refused to deliver either; they have had a council at Mickasukee, in which they have determined upon war; they have been at war on helpless women and children, let them now calculate upon fighting men. We have long known that we had enemies east of this river: we likewise know we have some friends; but they are so mixed together we cannot always distinguish the one from the other. The President, wishing to do justice to his red friends and children, has given orders for the bad to be separated from the good. Those who have taken up arms against him, and such as have listened to the bad talks of the people beyond the sea, must go to Mickasukee Suwany, where we wish to find them together. But all those who were our friends in the war will sit at their homes in peace; we will pay them for what corn and meat they have to sell us; we will be their friends, and when they are hungry we will give them meat. The hostile party pretend to calculate upon help from the British! they may as well look for soldiers from the moon to help them. Their warriors were beaten, and driven from our

country by American troops. The English are not able to help themselves; how, then, should they help the old "Red Sticks," whom they have ruined by pretended friendship?

*Extract of a letter from General Gaines to the Secretary of War, dated*

FORT SCOTT, GEO., Dec. 4, 1817.

I would much more willingly devote my time and humble faculties in the delightful occupation of bringing over savage man to the walks of civil life, where this is practicable without force, than to contribute to the destruction of any one of the human race; but every effort in the work of civilization, to be effectual, must accord with the immutable principles of justice. The savage must be taught and compelled to do that which is right, and to abstain from doing that which is wrong. The poisonous cup of barbarism cannot be taken from the lips of the savage by the mild voice of reason alone; the strong mandate of justice must be resorted to and enforced.

After all that the wisdom and philanthropy of our country and Government, aided by millions of money, have yet been able to effect, it is a melancholy truth, that in no Indian nation within my knowledge, (the Chickasaws excepted,) has the scalping knife been laid aside for any considerable length of time, until their every hope of using it with impunity had been defeated.

DEPARTMENT OF WAR, Dec. 9, 1817.

SIR: Your letter, bearing date the 21st ultimo, advising of the first brigade at Fort Scott on the 19th ultimo, and of the subsequent attack with the Indians at Fowltown, has been received. Although the necessity of this attack, and the consequent effusion of blood, is exceedingly to be regretted, yet it is hoped that the prompt measures which were taken by you on your arrival at Fort Scott, and the display of such an efficient force in that quarter, will induce the Indians to abstain from further depredations, and sue for peace.

Referring to the letters addressed to you from this Department on the 30th of October and 2d of December, as manifesting the views of the President, I have to request that you conform to instructions therein given. Should the Indians, however, assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, you will, in that event, exercise a sound discretion as to the propriety of crossing the line for the purpose of attacking them, and breaking up their town. I have the honor to be, &c.

GEORGE GRAHAM.

Major Gen. EDMUND P. GAINES.

*Extract of a letter from David B. Mitchell, Indian agent, to George Graham, acting Secretary of War, dated*

CREEK AGENCY, Dec. 14, 1817.

I have the honor to acknowledge the receipt of your two letters of the 31st of October, and 3d

*Defeat of the Seminole Indians, &c.*

November last. Before the receipt of those letters, a meeting of the principal chiefs had been called by the Little Prince, at the town of Thlatch-cau, on the Chatahoochee river, near Fort Mitchell, at which I attended; the object of which was to take into consideration the state of the nation, and particularly the measures which it would be proper for them to take in relation to those Indians residing between Fort Gaines and the Spanish line; and also the conduct they should pursue with regard to the war with the Seminoles. They unanimously confessed much regret that hostilities should have commenced between the troops under General Gaines and the Fowltown Indians, who reside within our boundary; because these Indians, although they did not unite with the friendly ones during the late war, neither did they join the Red Sticks, and had recently expressed a great desire to become decidedly friendly. They were, however, perfectly willing that their warriors should join General Gaines against the Seminoles.

I stated to them that it was not the desire of the President to go to war with the Seminoles, if he could honorably avoid it; and, at the present moment, he would not consent to their going against the Seminoles within the Spanish territory, under authority of the United States; that they must wait, therefore, until I gave them the order to march. At the same time, I advised them to send a confidential and trusty chief down to the Indians living between Fort Gaines and the Spanish line, and desired them immediately to remove above the line of Jackson's treaty; and that the same chief should then proceed directly to the Mickasukee town, the headquarters of the Seminoles and Red Sticks of the late war, and propose to them certain terms of peace, and a junction of their force to go against the negro camp. The objects which this chief was instructed to hold out to those Indians as attainable, by adopting this course, were various, and of sufficient importance, in the view of those making the proposition, to induce a belief that they would be favorably received; in which event, I should proceed to Fort Scott to adjust their differences. This course of proceeding was immediately adopted, and the head man of the Ososches, Hopoi-Haijo, set out on the same day, charged with the mission. To afford time to ascertain the result of this plan, and that I might be able to communicate with the War Department, another meeting was assigned for the 11th of next month, at this place, when all the friendly warriors, with McIntosh at their head, will attend to receive their final orders. But, on my return to this place, I fortunately fell in with General Gaines, on his way to Fort Hawkins, from whom I learned the fatal disaster which had befallen a detachment of his troops, under Lieutenant Scott, on the 30th of last month; the particulars of which he informed me he had communicated, which renders a detail from me unnecessary.

In speaking with General Gaines upon the subject of the road from Fort Hawkins to Fort

Stoddert, he informed me that it was not this road to which he referred in his communication to the War Department, but ninety miles of new road, which he had made between Fort Montgomery and Fort Scott, and by which he recently marched the troops from the former to the latter post. As soon as I receive the five thousand dollars which you have ordered to be remitted to me, I shall endeavor to lay it out to the very best advantage in repairing the bridges and roads; and General Gaines has assured me that, as soon as the troops can be spared, a detachment shall be ordered to assist.

*Copy of a letter from Major General E. P. Gaines to the Secretary of War, dated*

HEADQ'RS, FORT HAWKINS, GEORGIA,  
December 15, 1817.

SIR: I arrived at this place the day before yesterday morning. In the afternoon of the same day, I reviewed the detachment of Georgia militia, under the command of Brigadier General Glasscock. They look well, and are ready to march; but the inattention on the part of the contractor's agent to the requisitions for a supply of rations will, I apprehend, according to custom, delay the movement of the militia until some part of the frontier settlements suffer by the Indians, who, I have no doubt, will detach considerable parties for this purpose as soon as they find themselves unable to succeed in any attempt against the regular troops at Fort Scott; and I think it cannot be long before they are convinced of this. But, although I consider the regular troops secure in the positions they occupy, yet I am satisfied their numbers will not warrant their being detached, or leaving their places of defence, except to a very small extent.

I have just now received Mr. Graham's letter of the 2d instant.

The views of the President, so far as may depend on me, shall be scrupulously observed. I should instantly discharge the Georgia militia, were I not strongly impressed with a belief that such a step would hazard the safety of the frontier settlements. The Seminole Indians, however strange and absurd it may appear to those who understand little of their real character and extreme ignorance, entertain a notion that they cannot be beaten by our troops. They confidently assert that we have never beaten them, or any of their people, except when we have been assisted by "red people." This will appear the less extraordinary when it is recollected that they have little or no means of knowing the strength and resources of our country; they have not travelled through it; they read neither books nor newspapers; nor have they opportunities of conversing with persons able to inform them. I feel warranted, from all I know of these savages, in saying that they do not believe we can beat them. This error of theirs has led them, from time to time, for many years past, to massacre our frontier citizens, often the unoffending and helpless mother and babes. I felt myself

*Defeat of the Seminole Indians, &c.*

fully authorized to adopt the only measures which long experience has proved to be adequate to put a stop to these outrages. I was pleased with the prospect of being instrumental in effecting an object of so much importance to our exposed frontier settlements, and which I felt, and still feel, persuaded would, in the end, benefit the Indians. The steps I have taken are known to the Department of War. You can more readily conceive than I can describe the mortification and disappointment I have experienced in being compelled to suspend or abandon my measures at a moment when the loss of Lieutenant Scott and his party had given the enemy an occasion of triumph, and a certain prospect of increasing his strength, by enlisting against us all who had before wavered or hesitated. Permit me, then, to repeat my request that I may be permitted to return.

There is little ground to apprehend that we shall find it necessary to follow the Indians far beyond the national boundary. They are now to be found in very considerable parties on our side of the line.

I have not a doubt of the necessity of sending to Flint river, by way of Hartford, the detachment of militia under General Glasscock. My endeavors to put the detachment in motion will delay my own movement until the 17th instant, at which time I shall resume my march to Point Petre.

An opinion prevails among the well-informed of this part of the country (who have, by some means unknown to me, been advised of our intention to take Amelia Island) that our troops there will meet with no opposition. Should this be the case, I shall return to Fort Scott without delay. I have the honor, &c.

EDMUND P. GAINES,  
*Maj. Gen. commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

*Extract of a letter from Major General Andrew Jackson to George Graham, Acting Secretary of War, dated*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, December 16, 1817.*

I am in hopes that this check to the savages may incline them to peace. Should it not, and their hostility continue, the protection of our citizens will require that the wolf be struck in his den; for, rest assured, if ever the Indians find out that the territorial boundary of Spain is to be a sanctuary, their murders will be multiplied to a degree that our citizens on the southern frontier cannot bear. Spain is bound by treaties to keep the Indians, within her territory, at peace with us; having failed to do this, necessity will justify the measure, after giving her due notice, to follow the marauders and punish them in their retreat. The war hatchet having been raised, unless the Indians sue for peace, your frontier cannot be protected without entering their country; from long experience, this result has been fully established.

DEPARTMENT OF WAR, *Dec. 16, 1817.*

SIR: On the receipt of this letter, should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish post. In the last event, you will immediately notify this department.

I have the honor to be, &c.

J. C. CALHOUN.

Gen. EDMUND P. GAINES,  
*Fort Scott, Georgia.*

DEPARTMENT OF WAR, *Dec. 26, 1817.*

SIR: Your letters of November the 26th, and of the 2d and 3d instant, were received by this morning's mail. The fate of the detachment under Lieutenant Scott is much to be regretted; but, under all the circumstances, no blame can attach to yourself or the officers immediately concerned. When the order of the 12th November was given, directing you to repair to Amelia Island, it was hoped that the Seminoles would have been brought to their reason without an actual use of force, and that their hostility would not assume so serious an aspect. It is now a subject of much regret, that the service in that quarter has been deprived of your well known skill and vigilance.

Before this will reach you, it is hoped that the views of the President in relation to the settlement on Amelia Island will have been effected. Should that be the case, it is his wish that you should immediately repair to Fort Scott, and resume the command till General Jackson's arrival, to whom orders have this day been sent to command there; or, if you should think the force under your command sufficient, and other circumstances will admit, to penetrate through Florida, and co-operate in the attack on the Seminoles. I am not sufficiently acquainted with the topography of the country between Amelia and their towns, to say whether it is practicable, or what would be the best route; but it is not improbable that some advantage might be taken of the St. John's river, to effect the object. Should it be practicable, it is probable efficient aid might be given to the attack on them, as the attention of their warriors must be wholly directed towards Fort Scott. Should you think it practicable and advisable to co-operate, with the force under your command, you will leave a sufficient number at Amelia Island to retain the possession of that place.

I have the honor to be, &c.

J. C. CALHOUN.

Major Gen. EDMUND P. GAINES.

DEPARTMENT OF WAR, *Dec. 26, 1817.*

SIR: You will repair, with as little delay as practicable, to Fort Scott, and assume the im-

*Defeat of the Seminole Indians, &c.*

mediate command of the forces in that section of the Southern division.

The increasing display of hostile intentions, by the Seminole Indians, may render it necessary to concentrate all the contiguous and disposable force of your division upon that quarter. The regular force now there is about eight hundred strong, and one thousand militia of the State of Georgia are called into service. General Gaines estimates the strength of the Indians at two thousand seven hundred. Should you be of opinion that your numbers are too small to beat the enemy, you will call on the Executives of adjacent States for such an additional militia force as you may deem requisite.

General Gaines had been ordered, early in last month, to repair to Amelia Island. It is presumed that he has, therefore, relinquished the command at Fort Scott. Subsequent orders have been given to General Gaines, (copies of which will be furnished you,) advising him that you would be directed to take command, and directing him to reassume, should he deem the public interest to require it, the command at Fort Scott, until you should arrive there. If, however, the General should have progressed to Florida before these subsequent orders may have reached him, he was instructed to penetrate to the Seminole towns through the Floridas, provided the strength of his command at Amelia would justify his engaging in offensive operations.

With this view, you may be prepared to concentrate your forces, and to adopt the necessary measures to terminate a conflict which it has been the desire of the President, from considerations of humanity, to avoid, but which is now made necessary by their settled hostilities.

With great respect, I have the honor to be, sir, your most obedient servant.

J. C. CALHOUN.

Major Gen. ANDREW JACKSON.

*Extract of a letter from General Gaines to the Secretary of War, dated*

HEADQ'RS, HARTFORD, GEORGIA,  
January 9, 1818.

SIR: I had the honor to receive, on my way to this place, the 5th instant, by express, from Fort Hawkins, your very acceptable letters of the 9th and 16th of last month.

The instructions they contain shall be regarded with the attention which their importance demands.

I received by the same express several reports, up to the 21st December, from Lieutenant Colonel Arbuckle and Major Muhlenburg, copies of which I enclose herewith, Nos. 1, 2, 3, and 4.

By these reports it appears that the principal force of the enemy (between eight hundred and twelve hundred) has been assembled on the Apalachicola, with a view to cut off our supplies ordered up that river, and that the detachment with the vessels has suffered severe annoyance and some loss.

I do not apprehend that we shall lose a vessel, or that any serious consequences to the troops at Fort Scott will result from the delay and difficulty of obtaining supplies by that channel. The supply of flour is more than sufficient for the present month, and there is likewise a considerable supply of corn at the fort, and beef cattle in the neighborhood. Of salted pork there can be but little until the arrival in the river of thirty thousand rations, and with every other requisite supply ordered in the early part of last month from Mobile, and which may be brought up the river in the covered ball-proof boats which have been prepared for the purpose. But to guard against every untoward obstacle in that quarter, I have ordered supplies from this place and Fort Hawkins, part of which are now on the way, and will be deposited at a work now constructing by the detachment under General Glascock, on Flint river, at the Chehaw village, sixty miles above Fort Scott, whence the supplies will be taken in ball-proof boats; and I have strong ground to believe they will be at Fort Scott by the 24th of the present month, at which time I calculate upon being able to concentrate my force, and shall lose no time in attempting a decisive blow, which I trust will terminate the war.

I have received information that a party of Indians entered the settlement near Traders' Hill, a few days past, killed a woman, and took off some three or four negroes. I had previously ordered a detachment of artillery from Amelia Island, with two companies of militia taken from General Floyd's division, to take post at Traders' Hill, for the defence of that settlement. I have reason to believe the artillery arrived at the Hill about the time the murder was committed, and the militia soon after, and that the Indians were pursued.

The residue of militia taken from General Floyd's division (five companies) are ordered to this place to reinforce General Glascock's command, excepting one company, which will be posted near the big bend of Oakmulgee.

The detachment under General Glascock, delayed by rainy weather, bad roads, and want of punctuality in the contractor's department, may not be able to form a junction with the United States troops in time to put an end to the war before their term of service expires, which will be early in next month. I have therefore requested of his Excellency the Governor of this State an additional force, to assemble at this place the first of next month, to consist of four battalions of infantry and four companies of riflemen, for three months, which I hope will meet your approbation.

No. 1.

FORT SCOTT, December 20, 1817.

SIR: Since the day of your departure I have not received the least information, except by Indians, from Fort Gaines, and I have no information whatever of the Georgia militia or McIntosh's Indians.

You will herewith receive a copy of Brevet



*Defeat of the Seminole Indians, &c.*

Major Muhlenburg's letter to me, of the 16th instant, which will apprise you of his situation. The armed boat I sent down yesterday, under the command of Captain Blackstone, with a supply of fifteen days' provisions for the men on board the vessel, and some materials to better secure them from the fire of the enemy. I had the boat so altered as to make her convenient to carry forward an anchor, by which means the vessels will be enabled to progress slowly, and I think will reach this in eight or ten days, unassisted by the wind; they are about thirty miles below.

I shall do everything the force under my command will permit, without hazarding too much, to draw the attention of the enemy from the vessels, whose force, from the best information I have been able to obtain, is between eight hundred and twelve hundred Indians and negroes, and increasing daily. On the 13th instant, Hambly and Doyle were made prisoners by this party, and I presume killed, and their property of every description taken possession of. The chief, William Perryman, who had gone down with a party to protect Hambly and Doyle, was killed, and his men forced to join the opposite party. All the Indians on the Chattahoochee, below Fort Gaines, who are not disposed to go to war, I fear will be compelled to remove above for security.

The present war with these Indians will require a much greater force than was contemplated to bring it to a speedy and favorable conclusion. Capechinnico, or the principal chief of the Mickasukee town, is in command of all the hostile Indians.

I have a large keel-boat on the stocks, and should I not be deceived will have her in a condition for service in twenty days at farthest; she will transport from three to four hundred barrels, and will be constructed to navigate the Appalachicola river with safety and despatch.

In consequence of the situation of our vessels, and the difficulty of supplying Fort Hughes, I have thought it best to recall the command. During the time Captain McIntosh commanded that post, he was surrounded by a large force, and his arrangements were such as to do him much credit; he did the enemy some injury, and had no men killed or wounded.

There is but about twenty days' rations of meat on hand at this post. I have sent the contractor's agent to Fort Gaines to forward beef, and, if he should be disappointed there, have directed him to proceed further. I am, sir, &c.

M. ARBUCKLE,  
*Lieut. Col. com'g.*

Major Gen. GAINES.

No. 2.

FORT SCOTT, Dec. 21, 1817.

SIR: Since closing my letter, the keel-boat arrived from the vessels below with some wounded.

Major Muhlenburg states it is impossible for the vessels to get up, the shore being lined on both sides of the river with Indians and negroes who keep up a constant fire on them. He has

determined, if the boat does not return to him this evening, to drop down, and try to get to the bay. The boat will leave this under the command of Major Twigg at 12 o'clock to-day, and will reach them by sundown, provided it is not interrupted in its descent.

I shall endeavor to keep up an intercourse with them (by means of the keel-boat) until we can get the ammunition from on board, and, in the last extremity, they will be compelled to drop down to the bay; in doing which, I am apprehensive they will suffer severely.

You have, herewith, a copy of Brevet Major Muhlenburg's letter of the 19th instant. He appears dissatisfied that more has not been done for his relief; in this nothing shall be omitted that the force here can effect.

Should I attempt to march against the enemy with all the force here, with the intention of removing him from the river, I am confident I should not succeed, and, at least, would sustain a very considerable loss.

Men and means of every description are greatly wanting here, and should any misfortune happen to the vessels we have not half a supply of ammunition, and not a single stand of spare arms.

I have not heard a word from you since your departure. I am, sir, &c.

M. ARBUCKLE,  
*Lieut. Col. com'g.*

Major Gen. E. P. GAINES.

No. 3.

NEAR THE OCHESSEE TOWN,  
*Tuesday evening, Dec. 16, 1817.*

SIR: On Monday morning the transports were attacked by the Indians from both sides of the river, with a heavy fire of small arms. We returned their fire; the firing has continued ever since. We have lost two killed and thirteen wounded, most of them severely; whether we have injured them any, I am unable to say. We are now compelled to remain here, as it is impossible for us to carry out a warp, as a man cannot show himself above the bulwark without being fired on. I can assure you that our present situation is not the most pleasant, not knowing how soon, or whether, we are to receive succor from above.

The wounded are in but a bad situation, owing to the vessels being much crowded, and it is impossible to make them any ways comfortable on board. Not having any other means to communicate to you, I am compelled to despatch the keel-boat under the command of Captain Clinch, with instructions to make the best of his way to Fort Scott.

I hope to hear from you soon with instructions how I am to proceed in my present situation.

With respect, &c.

P. MUHLENBURG, *Major.*

P. S. We have but a few days' provision on hand; the men have been on half allowance for some time.

*Defeat of the Seminole Indians, &c.*

No. 4.

NEW OCHESEE TOWN, Dec. 19, 1817.

SIR: Yours by Captain Blackston was received at 12 o'clock this morning, and was in hopes that you would have been able to afford some relief to the command, as our situation demanded that something should have been done immediately. That we are not able to progress is evident, as we have the enemy on both sides of the river, and, therefore, impracticable to carry out a warp. Had we not heard from you by the keel-boat this morning, it was decided that we should have attempted to return to the bay this evening. I shall now despatch the keel-boat under the command of Lieutenant Gray, and try to retain our present position until the night of the 21st.

In case we should not hear from you, or be reinforced by land, we shall make the attempt to reach the bay. For further particulars, I refer you to Lieutenant Gray. With respect, &c.

P. MUHLENBURG, Major.

Lieut. Colonel ARBUCKLE.

*Extract of a letter to Brevet Major General Edmund P. Gaines, dated*

DEPARTMENT OF WAR, Jan. 16, 1818.

The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked. Orders were issued soon after my arrival here, directing the war to be carried on within the limits of Florida, should it be necessary to its speedy and effectual termination. The orders, I presume, have been received.

As soon as it was known that you had repaired to Amelia Island, in obedience to orders, and it being uncertain how long you might be detained there, the state of things at Fort Scott made it necessary to order General Jackson to take command there. From his known promptitude, it is presumable that his arrival may be soon expected; and, in the meantime, full confidence is placed in your well established military talents. I hope the junction of the militia will enable you to carry on offensive operations, and to restrain the enemy from depredations on the frontier.

J. C. CALHOUN.

HEADQ'RS, HARTFORD, GEORGIA,  
January 23, 1818.

SIR: I have received this day from Lieutenant Colonel Arbuckle reports of the state of his command, up to the 18th of the present month, and from Brigadier General Glascock up to yesterday's date, copies of which I have the honor to enclose herewith, No. 1 to 6.

By these communications you will perceive that, whatever has been or can be said of the desire of the Seminole Indians to lay down their arms and make peace, there is in reality no prospect of peace, without beating them into a conviction of the danger and evil effects of a war with us; and I feel persuaded that a peace made with them at this time would be followed by

scenes of more daring outrage than those which our frontier settlements have heretofore suffered.

I have learned from an officer lately at Fort Hawkins, that there is in the post-office at that place a letter from the Department of War to Major General Jackson. The hope of seeing him, and ascertaining his views upon the subject of our operations in this quarter, and to provide for supplying the additional detachment of militia ordered to this place, I have delayed my movement to Fort Scott until I see or hear from the General, or from the Department of War.

I have, &amp;c.

EDMUND P. GAINES.

Hon. J. C. CALHOUN,

*Secretary of War.*

No. 1.

FORT GAINES, Dec. 23, 1817.

SIR: I received yours by Mr. Laycock last evening, expressing a wish to hear from this post. This is the third attempt that I have made to give you news from here; this same man was made prisoner on his way to your post, and a second time compelled to return back.

You are anxious to know of the movements of the militia and Indians. I will give you what I have heard on that subject; it was brought from Fort Mitchell by an Indian on express; he received it from Sam Sells, direct from Fort Hawkins; he states that the militia were to leave the Agency on last Thursday; no word of them here yet. He stated that there was considerable confusion amongst them about marching, and that some had refused to march; and that the agent had told the Indians that General Gaines had no business to go to the Indian towns and fire on them in the night; that he had acted like the Indians themselves in doing so. McIntosh had come as far as Fort Mitchell on his way, and the agent has sent him home, and told him to meet him at the Agency for a talk, in thirty days, eighteen of which yet remains, and that he should not move until the General Government should give the order. This I expect is the case; for they have sent Onis Horyo a talk that he was doing wrong to be in service in this country, till the agent should give him orders. He further states that the agent has sent a talk in Seminole, to the chiefs to meet him, and he would make peace for them, and the white people should have no satisfaction for what was done. This is the news here as it respects the Indians. I am induced to believe that they are not coming; nothing new here since you heard from this post. After all that I have said to the citizens, they are going from the fort to their houses. General Gaines directed me to send you the census of the people at this post. A few days since there were two hundred and eighty-five persons in the fort, sixty of which have left it. The General directed me to have a large corn house built for the reception of the people's corn; I have done so, but they have no disposition to do so. I am constantly advising the people to secure their provisions, but they will not take advice till it will

*Defeat of the Seminole Indians, &c.*

be too late. So soon as they are done with the schooner, I shall expect a visit in this neighborhood. Six — will be sufficient to destroy all the corn in this part of the country, as it all remains at the people's houses without any protection.

An Indian report here says that Mr. Arbuthnot's son is with the Indians, giving them instructions, and that it was his doings that Doyle and Hambly were taken; they state that he is with Kenhija, and that his orders were to take them to him. The chiefs below here sent word to those above that they have heard that they were in the white people's service, and that they will pay them a visit after a little, and reward them for their conduct. Finding that those above are not coming down soon, they are considerably alarmed for fear they will fall on them.

ROBERT IRVIN.

Col. ARBUCKLE, *com'g Fort Scott.*

No. 2.

FORT SCOTT, *Dec. 27, 1817.*

SIR: Enclosed you will receive a copy of a letter I received yesterday from Captain Irvin. Can the information given by the Indian expresses be true?

The armed boat returned from the vessel in the Appalchicola river yesterday; and, although they have not progressed much, I was greatly gratified to be informed that no men had been killed or wounded on board of them, except those I informed you of in my communications of the 20th and 21st instant.

I consider the situation of those vessels much more safe than when I wrote to you last, and have little doubt I shall have them here in ten days from this time, or, if not, I can unload them with safety below, and have them returned to the bay.

I have had no information respecting the Georgia militia, or McIntosh and his Indians, except what is contained in the enclosed.

I have not heard of provisions being on the way from Fort Hawkins, nor have I received a line from you since your departure from this post. I am, &c.

M. ARBUCKLE, *Lieut. Col. Com.*

Major General E. P. GAINES,

*St. Marys, Georgia.*

No. 3.

FORT MITCHELL, *Dec. 30, 1817.*

MY FRIEND: The messenger which was sent to the Mickasukeys has returned with an answer to our talk. The Mickasukeys say it was not them that began the war; they were sitting down in peace, and the white people came on them in the night and fired on them. The Mickasukeys are all sitting in their town and doing no mischief, and waiting to see if the white people will make peace with them. The people that shot at the boat, and killed all the white people, were the old Red Sticks from the Upper town—those that turned hostile last war. The man that was sent to the Mickasukeys (Hoopie Haija) with a peace-

talk met the Mickasukeys at the half-way ground, coming with a peace-talk to us.

Mr. Hambly and Mr. Doyle were taken prisoners; Hoopie Haija saw them; Tustennogee Chepo has gone to release them, and carry them to the fort at St. Mark's. I have sent you this little talk now; our meeting that you appointed will soon be, and then every thing will be made straight.

The Chehaws have received two letters from the army, and they had nobody to read them, and they do not know the contents, and wish the army could be stopped until our meeting is over.

TUSTENNOGEE HOPOIE,  
HOPOIE HAIJA.

No. 4.

CAMP CUMMING, *January 10, 1818.*

SIR: Yours of the 8th is just received, and I am extremely gratified to hear of your arrival at Hartford, as I already feel considerably relieved. The many difficulties which have occurred since you left us, from contractors, together with the want of experience, I can assure you, has caused me to feel the responsibility attached to my command; but, with your instructions, I flatter myself I shall now be able to get on.

We are now encamped about four miles from Fort Blackhear, on a very beautiful and commanding spot, with a considerable creek on each side, about four miles distant, neither of which can be crossed with wagons. A bridge was erected on the one in our rear, but it is entirely gone; so soon as the one in our front falls sufficiently, it will be bridged. I have thought it advisable to have the roads repaired, which will be done immediately.

Upolicha, a confidential Indian, has just arrived with a talk from Conard, the purport of which is as follows: He states, that since the principal chiefs left home for the Agency, the whole of the property of one of them was taken off by some of the Fowltown Indians, and that Conard is considerably alarmed for his own property. He has advised us to be on our guard, particularly so far as it relates to the soldiers strolling from the camp, which, for fear of danger, will be attended to. We have not now on hand ten bushels of corn. Brockman is of opinion that it will be dangerous to go again to the Chehaw, in consequence of which I have, at his particular request, sent him with this express. I must refer you to him for further information as to the corn and provisions to be procured in the nation.

I am almost fearful, when I recollect for a moment, that the time of service for which this detachment has been called on, will expire before your object can be accomplished, as the officers, with a few exceptions, are governed by the men, and not the men by the officers. I am in hopes, however, that should your object not be accomplished by the first of next month, I shall be able to render you an essential service, by volunteers from my command, should it be deemed neces-

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sary. I will, however, have a personal interview with you on the subject, on your arrival at our camp.

Not having calculated on moving from this place for six or seven days, for want of provisions, &c., I gave a furlough to Captain Melvin; should you deem it necessary for us to move before that time, I would be glad that he would return. I am yours, &c.

THOMAS GLASSCOCK,

*Brig. Gen. Com'g D. G. M. U. S. S.*

Maj. Gen. E. P. GAINES.

No. 5.

CEDAR CREEK, 5 o'clock, Jan. 22, 1818.

SIR: I was ordered this evening by General Glasscock to take five men, and proceed immediately to meet Captain Leigh, who was packed from Hartford with provisions. I proceeded accordingly, and met him about two miles on the east side of this creek, and Captain Leigh, five men and myself, proceeded on to Blackshear's works, in considerable haste; when we reached the creek, we made a halt to fix on a pack, which was likely to fall, before we crossed. During this stay, Captain Leigh and a private of Captain Avery's company, by the name of Samuel Loftis, started to cross. I called to the Captain, and observed that he was probably going into danger; he replied not. As my party and self had crossed not more than half an hour before, I proceeded, and accompanied by this man Loftis, they had not gotten entirely across the creek, when they were fired on by a party of Indians, the number I suppose to be twenty or thirty, from the report of their guns, and both shot dead on the spot; I immediately rode back and ordered the provisions, together with Cornet Isaac Brown's command, consisting of twenty men, to a corner of General Blackshear's old works, on the east side of the creek, where we took shelter in a small breastwork, determined to secure the provisions if possible: this was the only alternative, as they were planted on the swamp, which was at least one hundred yards across, and I not having more than twenty-seven men under my command with guns. When we completed our works, Captain Snother and Mr. John Bridges proceeded down the creek, in order to make their way across to the army, that General Glasscock might be informed of the murder, and we reinforced: that reinforcement has just reached our works, commanded by Major Joseph Morgan. I, with Captain Donnelly's company, will proceed with the provisions to the army, and Major Morgan will pursue the trail.

I hope, sir, as this was written by a torch, that you will excuse, or correct, any mistake.

I am sir, your obedient servant,

F. E. HEARD, *Brigade Major.*

No. 6.

HEADQ'RS, HARTFORD GEORGIA,

*January 26, 1818.*

SIR: In obedience to your order to me of the 2d instant, I proceeded to Savannah, when, to

my great mortification, I found the draught little further advanced than when the order first issued from the Executive department. In a conference with Lieutenant Colonel Marshall, I learned that the draught has been made, but that a number of desertions had since taken place, which, with forty-seven determined exempt from duty, have reduced the quota one-half, and that he knows of no steps that can be adopted, without a flagrant violation of the civil law, to cause their attendance at the general rendezvous, if they refuse to go, which they do, almost unanimously. The draught from the 35th regiment have progressed further in their preparations for the service, though I was informed by Lieutenant Colonel Harrison that it would be some days before they could leave their homes, as an inquiry into exemption, and a second draught, would be necessary to fill their ranks.

On my leaving Savannah, Colonel Marshall assured me, that as soon as a second draught had been effected, and the necessary arrangements made for their movements, he would address to me a report to that effect, at Fort Hawkins, which has not been received, and I am left to conclude that the arrangements referred to have not been carried into effect. Captain Russell reported to me that he was prepared to furnish the transportation necessary for their movements, if it should be required. I have the honor, &c.

CLINTON WRIGHT,

*Major United States Army.*

General E. P. GAINES.

HEADQ'RS, HARTFORD, GEORGIA,

*January 30, 1818.*

SIR: I had the honor to receive yesterday your letters of the 26th December, and 16th of the present month, the first having followed me from Amelia Island.

I have, for some months past, endeavored to inform myself of the topography of the country between the Appalachicola and St. John's; but have received only the apparently imperfect accounts of some half-blooded blacks, and Indians, as to the western part of that tract of country. The eastern part is well known to many of the inhabitants of this State, with whom I have conversed. From Amelia Island to the Lochway, the country is, for the most part, what is here called pine barren, nearly level, intersected with creeks and ponds, bordered in many places with rich hammock land, which increases in quantity and quality as you approach the Lochway towns. From thence to St. Mark's and Appalachicola, the hammock land is found in very considerable bodies; much the largest portion of the country, however, is poor, sandy, pine barren. The hammock lands afford great quantities of live oak, some cedar, and other valuable timber. There are several large swamps on the route between the Lochway and St. Mark's, which, during a season of rainy weather, are impracticable, without the aid of boats; but the country being generally open, will admit of good roads, when the

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weather is moderately dry. I have not a doubt but the army may march with considerable facility, from the Appalachicola to St. John's, or Amelia Island, with the aid of a few vessels to send provisions, &c., from Fort Scott down the river, and thence coastwise to the mouth of the Suwanee river, 130 miles east of the Appalachicola, and about 140 miles west, southwest from Amelia Island. The last mentioned distance may be marched in eight days, without wagons or baggage, the troops carrying their own provisions in their haversacks. A movement from Amelia Island, by the way of St. John's and Lochway, as you have suggested, would, I think, produce the desired effect, in co-operation with the troops from Fort Scott; upon this subject, I shall confer with the commander-in-chief of the division.

By a letter from Major Bankhead, dated the 17th of this month, I learn that two thousand Spanish troops are reported to have arrived at St. Augustine. Although little reliance can be placed in the report received by Major Bankhead, yet, whether it be true or not, I am satisfied his command (220 men) is quite too small to admit of any detachment, other than that at Trader's Hill. There should, indeed, be not less than this number stationed at and in the immediate vicinity of the Hill, and a much greater number upon the frontier between that point and this. By a letter from W. Harris, Esq., of Telfair, I am informed that a party of Indians killed a Mr. Daniel Dikes and his family, a few days past, on the St. Tilla, about forty miles from the town of Jackson, Telfair court-house. I immediately detached a troop of cavalry in pursuit of the Indians, and at the same time sent out a detachment of infantry to reconnoitre the country, and secure the intermediate frontier from a similar outrage.

Accompanying this I enclose a monthly return of the detachment of Georgia militia under Brigadier General Glascock, which was not received until this day; I had confidently believed that the proper returns of this detachment had been duly forwarded by Major Nicks, who mustered and inspected the same, to the Adjutant and Inspector General's office.

With extreme regret, I have to state that the expected co-operation on the part of that detachment has entirely failed. An attempt to obtain volunteers to continue in service until the arrival of the detachment from Major General Floyd's division, produced but forty men. The enclosed report of Major Wright, assistant adjutant general, contains a discouraging picture of that detachment. It cannot be expected at this place before the 10th of next month, nor is it probable that more than two hundred and fifty or three hundred out of the five hundred called for, can be got into service.

The enclosed papers, No. 1 to 4, contain copies of my last correspondence with the contractor's agent.

The acting quartermaster, Lieutenant Keiser, has purchased the greater part of the provisions

issued during the present month, and is now engaged in the purchase of thirty thousand rations, the greater part of which is now on the way to Fort Scott, by the way of Flint river. To pay for these supplies, I have been under the necessity of borrowing ten thousand dollars from the Governor of Georgia, upon a promise to replace the amount in three months from the 23d instant. I had taken the liberty to send to Augusta a draft upon the Department of War for fifteen thousand dollars, but could not obtain money on the draft without suffering a discount of 2½ per cent. which was totally inadmissible.

The fifteen thousand dollars, forwarded by your order, being required to pay the expense of transportation, for which this sum will be insufficient, I have to request that you will be pleased to order the sum of ten thousand dollars, on account of the supply of rations to be forwarded to his excellency Governor Rabun, to replace that sum advanced by him. I have, &c.

EDMUND P. GAINES.

The Hon. JOHN C. CALHOUN,  
*Secretary of War.*

No. 1.

HEADQ'RS, HARTFORD, GEORGIA,  
*January 12, 1818.*

SIR: I have received your report, in which you state that you have some rations "on the way," but you do not state where, or in what quantities, they are to be found. Let me be informed upon this subject without delay.

Having been informed by Brigadier General Glascock that he has not been regularly supplied with rations by you; that he had advanced you two thousand dollars to purchase pork for the detachment of Georgia militia under his command, (which I directed you to forward to this place for that detachment,) I learn that you have not complied with my requisition or order. Should this apparent neglect remain longer unexplained, your continuance as contractor's agent, or as sutler, within the limits of my command, will be no longer tolerated.

EDMUND P. GAINES,  
*Major General commanding.*

Captain O. W. CALLIS,  
*Contractor's Agent, Fort Hawkins.*

No. 2.

HARTFORD, *January 24, 1818.*

SIR: Your communication of the 12th is received. To the several subjects therein referred, and to others, I have the honor to reply as follows:

The rations reported to have been on hand were at Fort Hawkins, Creek Agency, Fort Mitchell, and Fort Gaines; estimated, at Fort Hawkins, say ten or fifteen thousand rations of pork and beef, and of flour four or five thousand rations; at the agency, nine thousand rations of flour, with a considerable quantity of the smaller parts; at Fort Mitchell, ten thousand rations of flour, with a very small quantity of vinegar; and

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at Fort Gaines, say six or seven thousand rations of flour.

The two thousand dollars received of General Glascock I did not understand were to be applied exclusively to the purchase of pork. My disbursements in the purchase of provision have considerably exceeded that sum since the receipt of it, which was on the 10th of December last. Of this fact I shall be able to convince the General, by a reference to my books, and other vouchers on that subject. It is true that the balance of pork left at Fort Hawkins was not forwarded to this place in compliance with your orders; this non-compliance proceeded from no disposition to evade or treat with indifference the orders of the General, but for want of immediate means of transporting it. In short, allow me to assure you, sir, this if I have, or if I may disobey your orders, it is alone ascribable to the want of the means for compliance. With regard to the flour refused at Fort Hawkins, afterwards transported to and sold at this place to the troops, by Mr. Lavake, I report that it was never the property of the contractor; that it was inspected and refused as his; that it was transported and sold by him, without the knowledge or consent of the contractor or his agent.

I have the honor to be, &c.

O. W. CALLIS,

*Contractor's Agent.*

Major Gen. E. P. GAINES, &c.

No. 3.

HEADQ'RS, HARTFORD, GEORGIA,  
*January 19, 1818.*

The army contractor is hereby required to provide for the daily issue of two thousand complete rations to the United States' troops and militia, at the new fort now building on Flint river, near the Chehaw village, and to have in store at that fort, by the 20th day of the next month, (February,) sixty thousand complete rations; the meat part of which to consist of good pickled pork or bacon.

EDMUND P. GAINES,

*Major General Com'g*

BENJAMIN G. ORR, Esq.,

*Army Contractor, or his Agent.*

No. 4.

HARTFORD, *January 24, 1818.*

SIR: I have the honor to acknowledge the receipt of your requisition, under date of the 19th, and to report that the contractor cannot comply with it in full; but that there is engaged to the contract to have been delivered at Fort Hawkins, on the 20th of this month, seventy thousand rations of pork, which, together with the provisions the money I have, or may have, will procure, shall be furnished the troops.

I have the honor to be, &c.

O. W. CALLIS,

*Contractor's Agent.*

Major General GAINES.

FORT SCOTT, *January 12, 1818.*

SIR: On the 16th instant I had the honor to inform you of the arrival of the vessels in charge of Brevet Major Muhlenburg, and to enclose to you the resignation of 1st Lieutenant Sharp, of the corps of artillery, the acceptance of which I recommended, on account of his intemperate habits. Since that period, Lieutenant Johnson, of the same corps, has tendered his resignation, which is herewith enclosed. I would also recommend that his wish to leave the service should be gratified, as his conduct in a skirmish with the Indians some time since was not such as to evidence his being well qualified for the profession of arms.

I have permitted him and Lieutenant Sharp to be absent until the acceptance of their resignations may be published, unless otherwise ordered; and herewith enclosed is a copy of Lieutenant Sharp's letter of resignation.

On the 4th instant I crossed the Flint river, about fourteen miles above this post, and proceeded to Fowltown, which had been deserted. I burnt it, and on the next day arrived at Allapulgus, a small town about fourteen miles southeast of this post. It had also been abandoned, and the cattle and stock of every kind removed, as had been the case at Fowltown. I am informed they have gone to or beyond the Okolokne river, there to place their women and property in greater security, and better prepare themselves for war. They continue to have considerable intercourse with the Indians at Chatahoochee, many of whom were with them, and assisted in the destruction of Lieutenant Scott and his party, and in the attack on our vessels ascending the river, under the command of Brevet Major Muhlenburg. You have herewith a copy of a letter from Mr. Irving, commanding at Fort Gaines. I cannot believe the information it contains, yet I have been informed, a few days since, that the Indians on the Chatahoochee, below Fort Gaines, have received information from the agent of the Creek nation that they are to use their pleasure in joining us, as we are the aggressors. But few of them require great inducement to act in the war, but most if on our side; and should the war with the Lower Creeks terminate on the terms represented by Mr. Irvin, it will be risking but little to say the peace will be of short duration. The force of this place is much too small to advance against the enemy, and I have not received the least information of the Georgia militia or McIntosh's Indians, except what is contained in Mr. Irvin's letter, or a line from General Gaines since his departure.

I have but about two days' rations of meat, and something upwards of thirty days' rations of flour on hand, and without advice of additional supplies being on the way; and should Captain Birch, who is now at Fort Gaines with a command of one hundred and twenty men, for the purpose of obtaining beef, not succeed, and the contractor's agents persist in neglecting their duty much longer, the consequences must be

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greatly disastrous to the inhabitants of the Chatahoochee.

I have sent Captain Cummings to the bay, for the purpose of obtaining information should any vessel arrive there with provision, and will do all in my power to maintain my position; yet I do greatly fear my best exertions to do so will fail. I detached a sergeant and four mounted men, on express, to Fort Hawkins, on the 21st ultimo, and have not since heard of them. I shall write to the Creek agent by the present opportunity, and enclose to him a copy of Mr. Irvin's letter.

I am, sir, very respectfully, &c.

M. ARBUCKLE,

*Lieut. Col. 7th Inf. commanding.*

Major Gen. ANDREW JACKSON,

*Nashville, Tennessee.*

N. B. Since writing the above, I have received a letter from General Gaines, dated on the 20th ultimo, at Hartford. The contractor's agent in that quarter, I am informed, has failed, and the militia are now about thirty miles above this, badly supplied with provision. Captain Birch has informed me that he will be able to obtain thirty or forty head of beef cattle at Fort Gaines; he will be compelled to take them, as the people refuse to sell.

M. A.

FORT SCOTT, *January 13, 1818.*

SIR: I received your letter of the 20th ultimo, yesterday, after writing to Major General Jackson; a copy of my letter to him is enclosed, which will exhibit to you the state of things in this quarter.

I have heard nothing more of Colonel Brearly or the militia, except that they were within twenty-five miles of the Flint river on the 4th instant. Brockman wrote to me on that date, and informed me that he was engaged procuring provisions for the militia, the contractor having failed to supply. This, with the information you gave on that subject, has induced me to contract with Mr. McCulloh to deliver fifteen thousand rations of meat at this post, in twenty days from this time, at twelve and a half cents per ration. Should he fulfil his agreement, and Captain Birch succeed in procuring thirty or forty head of beef cattle, I think that supply will last the troops until provisions are received from New Orleans. Our horses have a distemper among them, which I fear will destroy a great number of them.

I am, sir, very respectfully, &c.

M. ARBUCKLE, *Lt. Col. Com'g.*

Major Gen. E. P. GAINES,

*St. Mary's, Georgia.*

FORT SCOTT, *January 18, 1818.*

SIR: I have received information this evening, which I have no doubt may be relied on, that the whole or the greater portion of the hostile Indians are to have a meeting somewhere near the mouth of Flint river, on the 21st instant, for the purpose of concerting measures for the destruction of the

inhabitants on the Chatahoochee, and the reduction of this post. In the latter object they expect to succeed, owing to our want of supplies; and their calculations are not without a reasonable prospect of success, should not uncommon exertions be made to supply us from your quarter, as this command has been without meat at this time for five or six days, and have barely a hope of receiving a temporary supply, by a command sent to Fort Gaines for the purpose of collecting a few beef cattle.

I have heard from the bay this evening; one vessel has arrived there with clothing and military stores, having on board very little, if any, more provisions than will be required by the command on board of her, and without certain information of other vessels being on the way.

I have to request you will let me hear from you without loss of time, and that you will inform me of a prospect of supplies from your quarter.

I am, sir, most respectfully, &c.

M. ARBUCKLE, *Lt. Col. Com'g.*

Brigadier General GLASSCOCK,

*Chehaw town, Flint river.*

DEPARTMENT OF WAR, *Aug. 14, 1818.*

SIR: The President having determined to restore St. Marks and Pensacola, with the Barancas, to the Spanish authority, I am directed to issue orders to carry this determination into effect. You will, accordingly, give the necessary orders to the commandant at Pensacola to surrender that place, with the Barancas, to any Spanish officer properly authorized to receive them. Authority from the Governor General at the Havana, or the Spanish Minister, Don Onis, is considered sufficient; or, in case the Governor, late in possession of West Florida, Don Jose Mazot, should himself appear to receive possession, it will be restored to him on his own authority. St. Marks will be restored to the late Spanish commandant, should he appear to receive it, or to any officer having similar authority, as in the case of Pensacola; provided he is accompanied with a sufficient force to garrison it, so as to prevent the post from being seized by the hostile Indians. Its situation in the midst of the hostile Indians renders this precaution necessary. You, who have an accurate knowledge of the strength of the Indians, and of the post, will be able to give precise instructions on this point. It is sufficient that the Spanish force be so considerable as will probably prevent any attempt by the Indians to occupy it.

Public property will be restored in the condition, as far as practicable, in which it was taken possession of. On evacuating these posts, you will make such arrangements as will be the best calculated to hold the Indians, still remaining hostile, in check, and to cover our frontier. To effect these objects, it is thought that it will not be necessary to take post to the west of the Apalachicola, within the Florida line, as the Indians in that quarter are said to be very inconsiderable. You will, accordingly, station the troops which may be thought to be necessary for the

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protection of that portion of the frontier on our side of the line, unless your impression should be decidedly different from that, I have stated; in which event, you will take post at any point which you may judge proper within the country possessed by the Indians. On the east of the Appalachicola you may station the troops on either side of the line, as you may judge proper. Fort Gadsden, besides admitting of great facility for supplies, appears to be a very commanding position, and ought not to be evacuated. Should you think so, you will retain it, and garrison it with a sufficient force.

I trust you will be able to make such a distribution of your command as to afford, with vigilance, effectual protection to the frontier, without resorting to the militia. It is of great importance, if the militia can be dispensed with, not to call them into actual service, as it is harassing to them and exhausting to the Treasury. Protection is the first object, and the second is protection by the regular force. I have, &c.

J. C. CALHOUN.

Brevet Major Gen. E. P. GAINES,  
*Fort Hawkins, Georgia.*

DEPARTMENT OF WAR,  
*August 19, 1818.*

SIR: I send the enclosed extract from the letter of the Secretary of State to the Spanish Minister, in relation to St. Mark's and Pensacola. My instructions to you, of the 14th instant, contained the substance of this extract; and my object in communicating it now, is, that you may be in possession of the precise ideas communicated to the Spanish Minister, in case any difficulty should occur. I have, &c.

J. C. CALHOUN.

General E. P. GAINES.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, January 20, 1818.*

SIR: In a communication to you of the 12th instant, I acknowledged the receipt of your order of the 26th ultimo, and advised you of the appeal I had made to the patriotism of the West Tennesseans. On yesterday, the officers who had so gallantly headed the Tennessee mounted volunteers, during the Creek campaigns, met me at this place, and gave every assurance of their ability to assemble two regiments of mounted gun-men by the 31st instant, at any designated point within the western part of this State. I have ordered them to rendezvous at Fayetteville, and as many as may appear on the 31st instant, or the 1st of February, to be mustered and received into service for six months (if not sooner discharged) by my inspector general. The contractor has instructions to issue to these troops twenty days' rations, and every measure has been adopted to facilitate their march, via Fort Jackson, by the most practicable route, to Fort Scott. These troops will be well supplied as far

as Fort Jackson, and there the necessary provisions may be obtained and packed to answer their immediate wants, until they are intercepted by supplies from below. Major Fanning has been despatched to Fort Hawkins to purchase and forward on these supplies to the most convenient point of interception. I have advanced to him two thousand dollars, with authority to draw on the quartermaster general for any additional sums wanted, and imposed upon him the temporary duties of deputy quartermaster general. I am compelled to this arrangement from an impression that there can be no officer of the quartermaster's department in the vicinity of Fort Hawkins, and Colonel Gibson could not possibly reach that neighborhood to effect the objects wished.

My inspector general, Colonel Hayne, (no brigadier general having volunteered his services,) is charged with conducting the march of the two regiments of Tennessee volunteers to the southern frontier.

From the contents of Colonel Arbuckle's and Major Muhlenburg's letters, copies of which are herewith enclosed, you will readily perceive that the former must remain inactive, and that the latter is in a dangerous situation. Every information from our southern frontier justifies the decisive measures I have taken, and urges the prompt movement of the volunteers called into service. I trust you will view the subject in the same light, and that my arrangements may meet with your entire approbation.

The troops now assembled on our southern boundary, reinforced with the Tennessee volunteers called into service, will enable me to inflict speedy and merited chastisement on the deluded Seminoles. I remain here to facilitate every arrangement for the prompt movement of the Tennessee detachment, but will leave this on the 22d instant for Fort Scott, via Fort Hawkins.

From Colonel Arbuckle's letter I am advised of the departure of General Gaines from Fort Scott; and the newspapers communicate the information of the Georgia contingency being commanded by a Brigadier General. As he must, consequently, be the commanding officer of the forces in the neighborhood of Fort Scott, I have this day directed instructions to him by no means to precipitate himself into a general engagement with the Seminoles, but at all hazards to relieve, if possible, Major Muhlenburg from his present situation, and cover his ascent up the Appalachicola river. I have further advised him of my movements, and directed that he should remain on the defensive, collect all the necessary supplies, and have every preparation made for an active campaign as soon as reinforced by the Tennesseans.

General Gaines has been notified of this order. I have no later advices from him than that of the 2d of December, informing me of the catastrophe of Lieutenant Scott and party.

Your letter, enclosing your general order of the 29th ultimo, has been received. Like yourself, I have no other feelings to gratify than those con-



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nected with the public good, and it gives me pleasure to find that we coincide in those opinions calculated to produce it. Responsibility now rests where it should, on the officer issuing the order; and the principle acknowledged is calculated to insure that subordination so necessary to the harmonious movement of every part of the military machine.

It would afford me much pleasure to communicate with you on all military points which my experience may enable me to elucidate.

With respect, &c.

ANDREW JACKSON,

*Major General commanding.*

Hon. JOHN C. CALHOUN, *Sec'y of War.*

*Extract of a letter from J. C. Calhoun, Secretary of War, to Major General Andrew Jackson, dated*

JANUARY 29, 1818.

Your letters of the 12th and 13th instant are received. The measures you have taken to bring an efficient force into the field are approbated; and a confident hope is entertained that a speedy and successful termination of the Indian war will follow your exertions.

*Extract of a letter from the Secretary of War to Major General Andrew Jackson, dated*

DEPARTMENT OF WAR, Feb. 6, 1818.

I have the honor to acknowledge the receipt of your letter of the 20th ultimo, and to acquaint you with the entire approbation of the President of all the measures which you have adopted to terminate the rupture with the Indians. The honor of our arms, as well as the interest of our country, requires that it should be as speedily terminated as practicable; and the confidence reposed in your skill and promptitude assures us that peace will be restored on such conditions as will make it honorable and permanent.

*Extract of a letter from General Andrew Jackson to the Secretary of War, dated*

FORT HAWKINS, February 10, 1818.

I reached this place last evening, when I learned, by sundry communications received from Brevet Major General Gaines, that the Georgia militia, under General Glascock, had all returned home, leaving the frontier in a very exposed situation. The regular troops at Fort Scott have been out of provisions, but the means adopted by Major General Gaines to remedy that evil, induces a strong presumption that they are by this time supplied; which, with the stores ordered by me from New Orleans, will, I trust, afford us an ample supply for the campaign.

The contractor having failed, General Gaines has, by my order, directed the quartermaster to purchase provisions, in which he has succeeded so far as to procure one thousand one hundred hogs, and a sufficiency of bread stuff; this will march the troops to and from the seat of war.

I am without any official advice as to the preparation and march of the late requisition from the State of Georgia.

15th CON. 2d SESS.—69

*Extract of a letter from General Jackson to the Secretary of War, dated*

HARTFORD, GEORGIA, Feb. 14, 1818.

I arrived at this place on the evening of the 12th, and here met with General Gaines. From a letter received from the Governor of Georgia, advising of the movement of the militia from the several counties to the designated point of rendezvous, as well as the punctuality with which the troops have assembled here under General Gaines's requisition, has induced a hope that I shall be enabled to make a prompt and speedy march for the relief of Fort Scott.

I enclose you a copy of a letter from Colonel B. G. Orr to Captain Callis, contractor's agent at Fort Hawkins. From the sum with which he states to have furnished his agents in this country, you can judge how far efficient means have been adopted to insure the necessary supplies to the troops heretofore in service, as well as those summoned to the field under the late requisition. The mode of provisioning an army by contract is not adapted to the prompt and efficient movement of troops. It may answer in time of profound peace, where a failure or delay cannot produce any serious ill consequences; but where active operations are necessary, and success dependent on prompt and quick movements, there is no dependence to be placed on the contractor. His views are purely mercenary; and where the supplies will not insure him a profit, he hesitates not on a failure, never regarding how far it may defeat the best devised plans of the commander-in-chief. Experience has confirmed me in this opinion, and the recent failure has prompted me again to express it.

The plan which has been adopted to procure the necessary supplies for the army, to transport them to Fort Scott, and the quantity otherwise ordered to that point, will, I hope, relieve me from any embarrassment on that account, until a decisive blow has been struck upon the enemy. I have been so frequently embarrassed from the failures of contractors, that I cannot but express a hope that some other more efficient and certain mode of supplying our army may be adopted: such a plan as will render those charged with the execution of so important a trust responsible to military authority, and exposed to severe and merited chastisements, whenever defaulters, at the discretion of a court-martial.

HEADQ'RS, DIVISION OF THE SOUTH,

Fort Early, February 26, 1818.

SIR: In my last letter from Hartford, Georgia, of the 14th instant, I expressed a hope that the plans adopted to procure supplies for the detachment from Georgia to transport them to Fort Scott, together with the quantity ordered to that point, would relieve me from many embarrassments on that account, until a decisive blow could be struck upon the enemy.

The Georgia detachment marched from their encampment near Hartford on the 19th instant, and on that night General Gaines received a let-

*Defeat of the Seminole Indians, &c.*

ter from Lieutenant Colonel Arbuckle, commanding at Fort Scott, containing such intelligence of his intention to abandon that post, in the event of not receiving supplies in a short given time, as induced him (General Gaines) to set out that night, and, if possible, by reaching the place in time to prevent such a disastrous movement.

The General has, as he communicated to me, ordered a large supply of provisions to the Creek agency to be transported in boats to Fort Scott and this place, which would serve until that ordered from Mobile (by himself) should arrive; and under that order did calculate on meeting two boats loaded with flour, on his reaching this place, but was deceived, having arrived here on the night of the 20th, which he left on the evening of the 21st, in a small boat with twelve men. On the night of the 22d I received by express a letter directed to General Gaines, and dated the 19th instant, from Captain Melvin, of the 4th infantry, who had been charged by General Gaines to build the boats at the agency, and have the provisions transported thence, stating that two boats would be finished in two days which would transport upwards of one hundred barrels of flour each; these I had strongly calculated on, but they have not arrived. The excessive rains have rendered the roads so bad that I ordered the troops, on their march here, to take their baggage on the wagon horses, and abandon the wagons; this facilitated their march to this place, which they reached to-day; and eleven hundred men are now here without a barrel of flour or bushel of corn. We have pork on foot; and to-morrow I shall proceed to Fort Scott, and endeavor to procure from the Indians a supply of corn that will aid in subsisting the detachment until we reach that place. How those failures have happened under the superintendence of regular officers I cannot imagine, but blame must rest somewhere, and it shall be strictly investigated as soon as circumstances will permit.

The waters are unusually high, and the ground so rotten that it is with much difficulty that even pack-horses can pass. Every stream we are compelled either to bridge or swim.

I have the honor to be, &c.

ANDREW JACKSON,

*Major General commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort Gadsden, March 25, 1818.*

SIR: At 7 o'clock P. M., on the 9th instant, I reached Fort Scott, with the brigade of Georgia militia nine hundred bayonets strong, and some of the friendly Creeks who had joined me on my march a few days before, where finding but one quart of corn per man, and a few poor cattle, which, added to the live pork I brought along, would give us three days' rations of meat, determined me at once to use this small supply to the best advantage. Accordingly, having been advised by Colonel Gibson, quartermaster general, that he would sail from New Orleans on the 12th

of February with supplies, and being also advised that two sloops with provisions were in the bay, and an officer had been despatched from Fort Scott in a large keel-boat to bring up a part of their loading, and deeming that the preservation of these supplies would be to preserve the army, and enable me to prosecute the campaign, I assumed the command on the morning of the 10th; ordered the live stock slaughtered, and issued to the troops with one quart of corn to each man, and the line of march to be taken up at twelve meridian. Having to cross the Flint river, which was very high, combined with some neglect in returning the boats during a very dark night, I was unable to move from the opposite bank until nine o'clock, on the morning of the 11th, when I took up my line of march down the east bank of the river for this place, touching the river as often as practicable, looking for the provision boats which were ascending, and which I was fortunate enough to meet on the 13th, when I ordered an extra ration to the troops, they not having received a full one of meal or flour since their arrival at Fort Early.

On that day my patrols captured three prisoners, and found some hidden corn. On the morning of the 14th I ordered the boat down the river to this place, whilst I descended by land, and reached here, without interruption, on the 16th. The eligibility of this spot as a depot determined me, and I immediately directed my aide-camp, Lieutenant Gadsden, of the engineer corps, to furnish a plan for, and superintend the erection of, a fortification. His talents and indefatigable zeal, displayed in the execution of this order, induced me to name it Fort Gadsden, to which he is justly entitled. On my arrival here I immediately despatched the boat to the bay for the balance of the provisions known to be there, and to ascertain whether the flotilla, in charge of Colonel Gibson, had reached there, and which returned on the 19th with the unpleasing intelligence that nothing had been heard from the flotilla from New Orleans, since it was seen passing Fort Bowyer. I immediately put the troops on half rations, and pushed the completion of the fort for the protection of the provisions, in the event of their arrival, intending to march forthwith to the heart of the enemy, and endeavor to subside upon him. In the mean time, I despatched Major Fanning, of the corps of artillery, to take another look into the bay, whose return, on the morning of the 23d, brought the information that Colonel Gibson, with one gunboat and three transports, and others, in sight, were in the bay. On the same night I received other information that no more had arrived. I am, therefore, apprehensive that some of the smaller vessels have been lost, as one gunboat went to pieces, and another, when last spoken, had one foot of water in her hold; all the vessels had been spoken after a gale that dispersed them. A north and northwest wind has prevailed for six days, but has fortunately changed this morning. I am now awaiting a boat from the bay (which is expected to-day) to complete eight days' rations for my troops,

*Defeat of the Seminole Indians, &c.*

upon which I mean to march. From information received from Pensacola and New Orleans I have no doubt but that St. Marks is in possession of the Indians. The Governor of Pensacola informed Captain Call, of the 1st infantry, (now here,) that the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Marks of the commandant, and that he presumed possession would be given from inability to defend it. The Spanish Government is bound by treaty to keep her Indians at peace with us. They have acknowledged their incompetency to do this, and are consequently bound, by the law of nations, to yield us all facilities to reduce them. Under this consideration, should I be able, I shall take possession of the garrison as a depot for my supplies, should it be found in the hands of the Spaniards, they having supplied the Indians; but if in the hands of the enemy I will possess it, for the benefit of the United States, as a necessary position for me to hold, to give peace and security to this frontier, and put a final end to the Indian warfare in the South.

Finding it very difficult to supply Fort Crawford on the Canecub by land I have ordered the supplies for that garrison by water, and written to the Governor of Pensacola, that, if he interrupts them during the present Indian war, I shall view it as aiding our enemy, and treat it as an act of hostility; and stated to him the propriety, under existing circumstances, of his affording all facilities to put down their own as well as our enemies, and that our Governments, while negotiating, can take the subject under consideration, but, in the mean time, our provisions must pass to Fort Crawford by water without interruption.

In mine of the 14th February, from Hartford, I informed you of the means adopted to procure supplies, and in my last of the 26th, from Fort Early, I informed you of their situation. To those communications I beg leave to refer you. I have only to add that I left Fort Early for Fort Scott, and subsisted my troops on ground peas, corn, and pork, that I could occasionally procure from the Indians, with some pork I had on foot, the whole subsistence for man and horse not costing five hundred dollars. Of all the supplies purchased for the relief of Fort Scott, and the support of the Georgia militia, not one pound was received until I passed Fort Scott. I said in my last that blame rested somewhere. The cause of those failures will, in due time, be a subject of investigation, and Colonel Brerly has been arrested on the application of General Gaines.

By some strange fatality, unaccountable to me, the Tennessee volunteers have not yet joined me; they promptly left their homes, and through the inclement weather reached Fort Mitchell, where I had ordered them supplies, and where Colonel Hayne, who led them, met my instructions to pass by Fort Gaines, where he would get a supply of corn that would enable him to reach Fort Scott; but the idea of starvation had stalked abroad, a panic appears to have spread itself everywhere, and he was told that they were starving at Fort Gaines and Fort Scott, and he was in-

duced to pass into Georgia for supplies. His men and officers, as reported to me, were willing to risk the worst of consequences on what they had to join me; however, they have been marched from their supplies to a country stripped of them, when every consideration should have induced his advisers to have urged him on to secure the supplies in the bay, and preserve themselves and Fort Scott from starvation. I have a hope they will join me before I reach St. Marks, or the Mickasuky towns; this would be desirable, as the troops ordered from New Orleans, to protect the supplies, have not reached the bay, and leaving garrisons at Forts Scott and Gadsden weakens my force much; the whole effective strength of the regulars being but three hundred and sixty privates.

In mine of the 26th ultimo, from Fort Early, I stated that despatches received by General Gaines on the 19th instant, from the commanding officer at Fort Scott, induced him to set out that night for Fort Scott to prevent its abandonment, &c. In his passage down the Flint he was shipwrecked, by which he lost his assistant adjutant general, Major C. Wright, and two soldiers, (drowned.) The General reached me six days after, nearly exhausted by hunger and cold, having lost his baggage and clothing, and being compelled to wander in the woods four and a half days without anything to subsist on, or any clothing except a pair of pantaloons. I am happy to have it in my power to say that he is now with me, at the head of his brigade, in good health.

The great scarcity of subaltern officers, in the 4th and 7th regiments of infantry, has induced me to appoint several young men, present, as second lieutenants in the regiments, who, from personal knowledge, and good recommendations, I have no doubt, will prove themselves worthy, and, I trust, will meet with the approbation of the President. A list of their names, and the regiments to which they are attached, will be furnished the adjutant and inspector general, by my adjutant general.

ANDREW JACKSON,  
Major Gen. commanding.

P. S.—Since writing the above, I have the pleasure to inform you that the boat from the bay has arrived with provisions; also Colonel Gibson and Captain McKeever of the Navy. I shall move to-morrow, having made the necessary arrangements with Captain McKeever for his co-operation in transporting my supplies around to the bay of St. Marks, from which place I shall do myself the honor of communicating with you. Should our enemy attempt to escape with his supplies and booty to the small islands, and from thence carry on a predatory warfare, the assistance of the navy will prevent his escape.

General McIntosh, commanding the friendly Creeks, who had been ordered to reconnoitre the right bank of the Appalachicola, reported to me on the 19th that he had captured, without the fire of a gun, one hundred and eighty women and

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children and fifty-three warriors of the Red Ground chief's party, with their cattle and supplies; the chief and thirty warriors making their escape on horseback. Ten of the warriors, attempting to escape after they had surrendered, were killed by the General.

A. J.

Hon. J. C. CALHOUN, *Sec'y of War.*

COOSADA, NEAR FORT JACKSON,  
March 27, 1818.

SIR: Having arranged the affairs of the territory, as far as was practicable, I left St. Stephen's the 14th instant, with the intention of proceeding to Georgia for my family. At the town of Claiborne, the next day, intelligence reached me that, on the night of the 13th, a party of Indians had attacked a house on the Federal road, about sixty-five miles distant from that place, and murdered eight persons. I immediately ordered a detachment of mounted militia into service, and proceeded with them to the place. At the same time, apprehending the murderers might attempt to escape to Florida, the asylum for our enemies, I transmitted a communication, by express, to the commanding officer at Fort Crawford, notifying him of my arrangements, and desiring a force to be sent from the fort, in two detachments, along certain routes, to the place of rendezvous. The express was also instructed to overtake me. I accordingly received information from Major Young that my request had been executed. The detachments were marched with a promptitude honorable to the major, and I trust they will be enabled, with the aid of the militia, to arrest the progress of the hostile party.

Understanding that the inhabitants, in this quarter, considered themselves in much danger, I issued the necessary orders for the disposition of the troops, and proceeded hither. I have since been correctly informed, that the morning I left the place of rendezvous, five men, riding on the road in that neighborhood, were fired on by the Indians—three killed, and one wounded; in this state of things it is indispensable to the safety of the country, that troops should be stationed at several points; and I have taken measures, as far as I can, for that object. I have also issued an order, that all Indians who are hunting in our woods depart forthwith to their nation. It has become necessary to their safety, and to the repose of the inhabitants. We cannot distinguish the hostile from the friendly party; and such is the state of alarm, that the sight of an Indian creates among the women and children the most frightful apprehensions. I have sent a letter to the Big Warrior, requesting him to call his people home, and assuring him that my order is dictated by the most friendly motives.

Is it not probable that when the Seminoles are pressed by General Jackson, in the neighborhood of Appalachicola, they will retreat to our frontiers, and take revenge on our defenceless inhabitants? I look for it, and am without the means of resistance. There are not more than one hun-

dred regulars at Fort Crawford, and two-thirds of the militia of the territory are not yet organized. Nor can I organize them, and appoint the officers, until the country is laid off into proper beats. So soon as the Legislature arranged the counties, I issued the necessary instructions on that subject; but owing to high waters, and the want of bridges, it is impossible to have them executed at present. There is not, moreover, nor has there been one dollar in our treasury. You will readily perceive my embarrassments, and I earnestly entreat you to place funds at my disposal for the protection of the people, and, if practicable, to order a much larger number of regular troops to our frontiers.

I shall make this my headquarters for some weeks. I have the honor to be, &c.

WM. W. BIBB.

HON. JOHN C. CALHOUN,  
*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 8, 1818.

SIR: I wrote you from Fort Gadsden, communicating the embarrassments under which I had labored, previous to my arrival at that post, and my determination, being then in a situation to commence active operations, to penetrate immediately into the centre of the Seminole towns. My army marched on the 26th ultimo, and, on the 1st of April, was reinforced by the friendly Creek warriors, under General McIntosh, and a detachment of Tennessee volunteers, commanded by Colonel Elliott. On the same day, a mile and a half in advance of the Mickasukian villages, a small party of hostile Indians were discovered judiciously located on a point of land projecting into an extensive marshy pond; the position designated, as since understood, for the concentrating of the negro and Indian forces to give us battle. They sustained, for a short period, a spirited attack from my advanced spy companies, but fled and dispersed in every direction, upon coming in contact with my flank columns, and discovering a movement to encircle them. The pursuit was continued through the Mickasukian towns, until night compelled me to encamp my army. The next day detachments were sent out, in every direction, to reconnoitre the country, secure all supplies found, and reduce to ashes the villages. The duty was executed to my satisfaction; nearly three hundred houses were consumed, and the greatest abundance of corn, cattle, &c., brought in. Every indication of a hostile spirit was found in the habitations of their chiefs. In the council house of Kenhagee's town, the King of the Mickasukians, more than fifty fresh scalps were found; and, in the centre of the public square, the old Red Stick's standard, a red pole, was erected, crowned with the scalps, recognised by the hair, as torn from the heads of the unfortunate companions of Scott. As I had reason to believe that a portion of the hostile Indians had fled to St. Marks, I directed my march towards that fortress. As advised, I

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found that the Indians and negroes combined had demanded a surrender of that work; the Spanish garrison was too weak to defend it, and there were circumstances reported producing a strong conviction in my mind, that, if not instigated by the Spanish authorities, the Indians had received the means of carrying on the war from that quarter; foreign agents, who have been long practising their intrigues and villainies in this country, had free access into the fort; St. Marks was necessary, as a depot, to insure success to my operations. These considerations determined me to occupy it with an American force. An inventory of Spanish property, munitions of war, &c., has been taken and receipted for; personal rights and private property have been respected; and the commandant and garrison furnished with transportation to Pensacola. My correspondence with the Spanish commandants, the evidences under which I acted, and a detailed account of my operations, will be furnished you as early as practicable. Success depends upon the rapidity of my movements; to-morrow I shall march for the Suwanee river, the destroying of the establishments on which will, in my opinion, put a final close to this savage war.

Captain McKeever, of the Navy, cruising at my request on this coast, has been fortunate enough to secure Francis, or Hillis Hajo, the great prophet, and Hornatlemied, an old Red Stick chief. They visited his vessel under an impression they were English; from whom, as they stated, supplies of munitions of war, &c., under late promises, were expected. Arbutnot, a Scotchman, and suspected as an instigator of this savage war, was found in St. Marks; he is in confinement, until evidences of his guilt can be collected. I am your most obedient servant,

ANDREW JACKSON,

*Major Gen. commanding.*

CAMP, 14 MILES FROM ST. MARKS,  
*On march to Suwanee, April 9, 1818.*

From evidences furnished me by a Mr. Hamblly, there is little room to doubt but that one of the chiefs, found slain on the field, in advance of the Mickasukian villages, was Kenhagee. Francis, or Hillis Hajo, and Hornatlemied, the prime instigators of this war, have been hung. The latter commanded the party who so inhumanly sacrificed Scott and his companions. Colonel Dyer, with the remainder of the Tennessee volunteers, is in the neighborhood, and will unite with me to-morrow.

AT MANACKS, April 15, 1818.

DEAR SIR: Since I last wrote to you I have received intelligence which makes it necessary for me to return to St. Stephens. I learn that the Indians who committed the late murders in this neighborhood were seen a few days since at Pensacola. My situation is extremely unpleasant. I am without funds for the protection of the territory, and totally ignorant of the views of the Government with respect to Florida. A friendly

and intelligent Indian has informed me that the hostile party, by whom we have been annoyed, are two miles south of the Florida line, on a creek called Yellow Water, from whence they make incursions upon us. And yet I have received no intimation from the Executive of the United States which authorizes me to send troops into the Spanish territory. What orders have been issued to General Jackson on that subject I know not; nor indeed am I acquainted in any degree with the arrangements on the part of the United States for prosecuting the present war.

I should be glad to ascertain the views of the Government. We have no mails at present, and I send this letter to Georgia by travellers whom I have met this evening on my route to St. Stephens.

WM. W. BIBB.

HON. JOHN C. CALHOUN,  
*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Bowlegs' Town, Suwanee river, April 20, '18.*

SIR: My last communication, dated Camp, before St. Mark's, April 8, and those to which it referred, advised you of my movements and operations up to that date; and, as I then advised you, I marched from that place on the morning of the 9th. On the evening of the 10th I was joined by the rear of the Tennessee volunteers, also by the Indians under General McIntosh, whom I had left at Mickasukee to scour the country around that place. Although the weather has been dry and pleasant, and the waters had subsided in a great degree, our march might be said to have been through water, which kept the infantry wet to the middle, and the depth of the swamps, added to the want of forage, occasioned the horses to give out daily in great numbers.

On the morning of the 12th, near Econfinnah, or Natural Bridge, a party of Indians were discovered on the margin of a swamp, and attacked by General McIntosh, and about fifty Tennessee volunteers, who routed them, killing thirty-seven warriors, and capturing six men and ninety-seven women and children; also recapturing a white woman who had been taken at the massacre of Scott. The friendly Indians also took some horses and about five hundred head of cattle from the enemy, who proved to be McQueen's party. Upon the application of an old woman of the prisoners, I agreed that if McQueen was tied and carried to the commandant of St. Mark's, her people should be received in peace, carried to the upper tribes of the Creek nation, and there provisioned until they could raise their own crops. She appeared much pleased with these terms, and I set her at liberty, with written instructions to the commandant of St. Mark's to that effect. Having received no further intelligence from McQueen, I am induced to believe the old woman has complied with her part of the obligation.

From St. Mark's I marched with eight days' rations, those that joined me having but five; this was done under the expectation of reaching this place in that time, founded on the report of

*Defeat of the Seminole Indians, &c.*

my faithful Indian guide, which I should have accomplished but for the poverty of my horses, and the continued sheets of water through which we had to pass. On the morning of the 15th, my scouts overtook a small party of Indians, killing one man, and capturing the residue, consisting of one man, and one woman and two children; and on that evening I encamped, as my guide supposed, within twelve miles of Suwanee. I marched very early on the 15th, under the hope of being able to encompass and attack the Indian and negro towns by one o'clock P. M., but much to my regret, at three o'clock, and after marching sixteen miles, we reached a remarkable pond, which my guide recollected, and reported to be distant six miles of the object of my march; here I should have halted for the night, had not six mounted Indians, (supposed to be spies,) who were discovered, effected their escape; this determined me to attempt, by a forced movement, to prevent the removal of their effects, and, if possible, themselves, from crossing the river; for my rations being out, it was all important to secure their supplies for the subsistence of my troops. Accordingly my lines of attack were instantly formed and put in motion; and about sunset my left flank column, composed of the 2d regiment of Tennessee volunteers, commanded by Col. Williamson, and a part of the friendly Indians under Col. Kanard, having approached the left flank of the centre town and commenced their attack, caused me to quicken the pace of the centre, composed of the regulars, Georgia militia, and my volunteer Kentucky and Tennessee guards, in order to press the enemy in his centre, whilst the right column, composed of the 1st regiment of Tennessee volunteers, under Colonel Dyer, and a part of the friendly Indians, headed by General McIntosh, who had preceded me, were endeavoring to turn his left and cut off his retreat to the river. They, however, having been previously informed of our force, by a precipitate retreat, soon crossed the river, where it is believed Colonel Kanard, with his Indians, did him considerable injury. Nine negroes and two Indians were found dead, and two negro men made prisoners. On the 17th, foraging parties were sent out, who found a considerable quantity of corn and some cattle. On the 18th, having obtained some small craft, I ordered General Gaines across the river with a strong detachment, and two days' provision, to pursue the enemy; the precipitancy of their flight was soon discovered by the great quantity of goods, corn, &c., strewed through the swamps, and convinced General Gaines that pursuit was in vain; nine Indians and five negro prisoners were taken by our Indians. The evidence of the haste with which the enemy had fled induced the General to confine his reconnoissance to search for cattle and horses; both of which were much wanted by the army. About thirty head of cattle were procured, but, from the reports accompanying General Gaines's, which, in due time, will be forwarded to you, and the disobedience of his orders by the Indians, not one pound was brought into camp.

As soon as time will permit, I shall forward you a detailed account of the various little affairs with the enemy, accompanied with reports of the commanding officers of detachments; suffice it for the present to add that every officer and soldier under my command, when danger appeared, showed a steady firmness, which convinced me that, in the event of a stubborn conflict, they would have realized the best hopes of their country and General.

I believe I may say that the destruction of this place, with the possession of St. Marks, having on the night of the 18th captured the late Lieutenant Ambrister, of the British marine corps, and, as represented by Arbutnot, successor to Woodbine, will end the Indian war for the present; and should it be renewed, the position taken, which ought to be held, will enable a small party to put it down promptly.

I shall order, or take myself a reconnoissance west of the Appalachicola, at Pensacola point, where, I am informed, there are a few Red Sticks assembled, who are fed and supplied by the Governor of Pensacola. My health being impaired, as soon as the duty is performed, the positions taken, well garrisoned, and security given to the southern frontier, (if the Government have not active employ for me,) I shall return to Nashville to regain my health. The health of the troops is much impaired, and I have ordered the Georgia troops to Hartford to be mustered, paid, and discharged, the General having communicated his wishes, and that of his troops, to be ordered directly there, and reporting that they have plenty of corn and beef to subsist them to that point. I have written to the Governor of Georgia to obtain from the State the necessary funds to pay General Glasscock's brigade when discharged, and that the Government will promptly refund it. I am compelled to this mode to have them promptly paid, Mr. Hogan, the paymaster of the 7th infantry, (for whom I received from Mr. Brent an enclosure said to contain fifty thousand dollars,) not having reached me.

From the information received from Ambrister, and Mr. Cook, who was captured with him, that A. Arbutnot's schooner was at the mouth of this river preparing to sail for the bay of Tampa, my aid-de-camp, Lieutenant Gadsden, volunteered his services with a small detachment to descend the river and capture her. The importance of this vessel to transport my sick to St. Marks, as well as to destroy the means used by the enemy, induced me to grant his request. He sailed yesterday, and I expected to have heard from him this morning. I only await his report to take up the line of march on my return to St. Marks. The Georgia brigade, by whom I send this, being about to march, compels me to close it without the report of Lieutenant Gadsden.

I have, &c.

ANDREW JACKSON,  
*Major General commanding.*

HON. JOHN C. CALHOUN,  
*Secretary of War.*

*Defeat of the Seminole Indians, &c.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort St. Mark's, April 20, 1818.*

SIR: I wrote you from Bowlegstown on the 20th instant. On the night of the same day, I received the expected despatch from my aid-de-camp, Lieutenant Gadsden, communicating the success of his expedition, and on the next day, as soon as the sick of my army were despatched down the Suwanee river, to be conveyed in the captured schooner to St. Mark's, I took up the line of march for that fort. I arrived at this place last evening, performing a march of one hundred and seven miles in less than five days. Lieutenant Gadsden had reached it a few hours before me. He communicates having found among the papers of Arbuthnot, Ambrister, and Cook, letters, memorials, &c., all pointing out the instigators of this savage war, and, in some measure, involving the British Government in the agency. These will be forwarded you in a detailed report I purpose communicating to you as early as practicable.

The old woman spoken of in my last communication to you, who had promised to use her influence in having McQueen captured and delivered up, has not been heard of. From signs discovered on the opposite shore of the St. Mark's river, I am induced to believe that that Indian party is still in this neighborhood. A detachment will be sent out to reconnoitre the country, to receive them as friends, if disposed to surrender, or inflict merited chastisement, if still hostile.

I shall leave this in two or three days for Fort Gadsden, and after making all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Appalachicola, I shall proceed direct for Nashville. My presence in this country can be no longer necessary. The Indian forces have been divided and scattered, and cut off from all communication with those unprincipled agents of foreign nations who have deluded them to their ruin; they have not the power, if the will remain, of again annoying our frontier.

I remain, &c.

ANDREW JACKSON,  
*Major Gen. commanding.*

Hon. J. C. CALHOUN,  
*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort Gadsden, May 5, 1818.*

SIR: I returned to this post with my army on the evening of the 2d instant, and embrace an early opportunity of furnishing you a detailed report of my operations to the east of the Appalachicola river. In the several communications addressed to you from Hartford, Fort Scott, and this place, I have stated the condition of the army on my assuming the immediate command, the embarrassment occasioned from the want of provisions, the privations of my troops on their march from the frontiers of Georgia, and the circumstances which compelled me to move di-

rectly down the Appalachicola river to meet with and protect the expected supplies from New Orleans. These were received on the 25th of March, and on the next day I was prepared for active operations. For a detailed account of my movements from that period to this day you are respectfully referred to the report prepared by my adjutant general, accompanied with Captain Hugh Young's topographical sketch of the route and distance performed. This has been principally a war of movements. The enemy, cut off from their strongholds, or deceived in the promised foreign aid, have uniformly avoided a general engagement. Their resistance has generally been feeble; and in the partial rencontres into which they seem to have been involuntarily forced, the regulars, volunteers, and militia, under my command, realized my expectations; every privation, fatigue, and exposure was encountered with the spirit of soldiers, and danger was met with a degree of fortitude calculated to strengthen the confidence I had reposed in them.

On the commencement of my operations, I was strongly impressed with a belief that this Indian war has been excited by some unprincipled foreign or private agents. The outlaws of the old Red Stick party had been too severely convinced, and the Seminoles were too weak in numbers to believe that they could possibly alone maintain a war with even partial success against the United States. Firmly convinced, therefore, that succor had been promised from some quarter, or that they had been deluded into a belief that America dare not violate the neutrality of Spain by penetrating to their towns, I early determined to ascertain these facts, and so direct my movements as to undeceive the Indians. After the destruction of the Mickasukian villages, I marched for St. Mark's. The correspondence between myself and the Spanish commandant, in which I demanded the occupancy of that fortress with an American garrison, accompanies this. It had been reported to me, direct from the Governor of Pensacola, that the Indians and negroes unfriendly to the United States had demanded of the commandant of St. Mark's a supply of ammunition, munitions of war, &c., threatening, in the event of a noncompliance, to take possession of the fort. The Spanish commandant acknowledged the defenceless state of his fortress, and his inability to defend it; and the Governor of Pensacola expressed similar apprehensions. The Spanish agents throughout the Floridas had uniformly disavowed having any connexion with the Indians, and acknowledged the obligations of His Catholic Majesty, under existing treaties, to restrain their outrages against the citizens of the United States. Indeed, they declared that the Seminole Indians were viewed as alike hostile to the Spanish Government, and that the will remained, though the power was wanting, to inflict merited chastisement on this lawless tribe. It was, therefore, to be supposed that the American army, impelled by the immutable laws of self-defence to penetrate the territory of His Catholic Majesty, to fight his battles, and even to relieve from a cruel

*Defeat of the Seminole Indians, &c.*

bondage some of his own subjects, would have been received as allies, hailed as deliverers, and every facility afforded to them to terminate speedily and successfully this savage war. Fort St. Mark's could not be maintained by the Spanish force garrisoning it. The Indians and negroes viewed it as an asylum, if driven from their towns, and were preparing to occupy it in this event. It was necessary to anticipate their movements, independent of the position being deemed essential as a depot, on which the success of my future operations measurably depended. In the spirit of friendship, therefore, I demanded its surrender to the army of the United States until the close of the Seminole war. The Spanish commandant required time to reflect. It was granted. A negotiation ensued, and an effort was made to protract it to an unreasonable length. In the conversations between my aide-camp, Lieutenant Gadsden, and the Spanish commandant, circumstances transpired convicting him of a disposition to favor the Indians, and of having taken an active part in aiding and abetting them in this war. I hesitated, therefore, no longer; and as I could not be received in friendship, I entered the fort by violence. Two light companies of the 7th regiment of infantry, and one of the 4th, under the command of Major Twiggs, were ordered to advance, lower the Spanish colors, and hoist the star-spangled banner on the ramparts of Fort St. Mark's. The order was executed promptly. No resistance was attempted on the part of the Spanish garrison. The duplicity of the Spanish commandant of St. Mark's, in professing friendship towards the United States while he was actually aiding and supplying her savage enemies, throwing open the gates of his garrison to their free access, appropriating the King's stores to their use, issuing ammunition and munitions of war to them, and knowingly purchasing of them property plundered from the citizens of the United States, is clearly evinced by the documents accompanying my correspondence.

In Fort Saint Mark's, as an inmate in the family of the Spanish commandant, an Englishman, by the name of Arbuthnot, was found. Unable satisfactorily to explain the objects of his visiting this country, and there being a combination of circumstances to justify a suspicion that his views were not honest, he was ordered in close confinement. The capture of his schooner, near the mouth of Suwanee river, by my aide-camp, Lieutenant Gadsden, and the papers found on board, unveiled his corrupt transactions, as well as those of a Captain Ambrister, late of the British colonial marine corps, taken as a prisoner near Bowlegs' town. These individuals were tried, under my orders, by a special court of select officers, legally convicted as excitors of this savage and negro war, legally condemned, and most justly punished for their iniquities. The proceedings of the court-martial in this case, with the volume of testimony justifying their condemnation, present scenes of

wickedness, corruption and barbarity, at which the heart sickens, and in which, in this enlightened age, it ought not scarcely to be believed that a Christian nation would have participated; and yet the British Government is involved in the agency. If Arbuthnot and Ambrister are not convicted as the authorized agents of Great Britain, there is no room to doubt but that that Government had a knowledge of their assumed character, and was well advised of the measures which they had adopted to excite the negroes and Indians in East Florida to war against the United States. I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, though slow retribution awaits those unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war.

Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola on the subject of permitting supplies to pass up the Escambia river to Fort Crawford. This letter, with another from St. Mark's, on the subject of some United States' clothing, shipped in a vessel in the employ of the Spanish Government, to that post, I now enclose, with his reply. The Governor of Pensacola's refusal of my demand cannot but be viewed as evincing a hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated that the Indians at war with the United States have free access into Pensacola; that they are kept advised from that quarter of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in large bodies, to the amount of four or five hundred warriors, in that city; that inroads from thence have lately been made on the Alabama, in one of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola; and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Fort St. Mark's, Fort Gadsden, and Fort Scott; and in Pensacola, should it become necessary to possess it.

It becomes my duty to state it as my confirmed opinion that, so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the seashore. The moment the American army retires from Florida, the war hatchet will be again raised, and the same scenes of indiscriminate massacre with which our frontier settlers have been visited will be repeated. So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of



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foreign intrigue; so long as they can receive ammunition, munitions of war, &c., from pretended traders, or Spanish commandants, it will be impossible to restrain their outrages. The burning of their towns, the destroying of their stock and provisions, will produce but temporary embarrassments; resupplied by Spanish authorities, they may concentrate or disperse at will, and keep up a lasting predatory warfare against the frontiers of the United States, as expensive to our Government as harassing to our troops. The savages, therefore, must be made dependant on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence.

I trust, therefore, that the measures which have been pursued will meet the approbation of the President of the United States. They have been adopted in pursuance of your instructions, and under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia."

The army will move on the 7th from hence, crossing the Appalachicola river at the Ochesee bluff, about thirty miles above this.

ANDREW JACKSON,

*Major Gen. commanding.*

Hon. J. C. CALHOUN,

*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Adj't Gen's Office, Fort Gadsden,  
Appalachicola river, May 3, 1818.*

SIR: I have the honor to report that the army under the immediate command of Major General Andrew Jackson took up the line of march on the 26th day of March last, with eight days' rations, and lay in advance of this post about six miles on the 29th, at Okolokne river, when nineteen canoes were made, and the principal part of the army crossed by eight o'clock, P. M., the residue next morning; when the march was again resumed at eleven o'clock, A. M. On this evening Brevet Major Twiggs of the 7th infantry was detached with one company and about two hundred warriors, with orders to advance on an Indian village called Tallahassie, and surprise it at day-break. On his near approach, he despatched a party to ascertain its situation, who reported it evacuated some days before. On the morning of the 31st he entered the village, having previously sent out parties to reconnoitre. Two of the enemy were made prisoners, one of whom made his escape from the Indians before he was brought into camp. The army passed the village about twelve o'clock, and encamped near Mickasuky, when intelligence was received of the approach of a detachment of mounted volunteers from Tennessee, under the command of Lieutenant Colonel Elliott, near four hundred strong. On the morning of the 1st of April the army formed and halted until their arrival, when they were ordered to form the advance of each flank, with Captains Russell and Evans's companies, as spies, with Captain John Gordon. The army

now advanced within a mile and a half of Kingbahaj's town, when a number of Indians were discovered herding cattle on the margin of a large pond. The General ordered the right and left columns to advance, with a view of cutting off their retreat, and at the same time instructed the advance light company, under Major Muhlenburg, the guard, under Major Nicks, together with the small companies composing his life guard, under Captains Dunlap and Crittenden, to advance in support of the spies, in the event of a general engagement. The spy companies commenced the attack, and a brisk running fire was kept up on both sides for some minutes, when the enemy divided, the spy companies pursuing those on the right; and Lieutenant Colonel Elliott having turned their flank, became generally engaged, and bore them over to the left column, under the command of Lieutenant Colonel Mitchell, within half gunshot of each other, when they were assailed by both flanks, and would all have fallen, had not the volunteers taken up the impression, from the similarity of dress, that some of the friendly warriors had reached in pursuit of the enemy, which occasioned the firing to cease for a short time, when a number made good their retreat into the swamp. Captain Crittenden's company, being on horseback, was unable to reach the head of Lieutenant Colonel Elliott's column, when they dismounted, and operated against the enemy. Major Muhlenburg's company, the advance guard, and Captain Dunlap's company, being on foot, were not able to reach the scene of action in time. The right column of Georgia militia, on nearing the pond, fled round it; and Colonel King, with his regiment, was ordered to advance through it, to support the column of horse, should it be found necessary; which was executed by the colonel with great promptness. The conduct of the officers and soldiers engaged on this occasion was, in every respect, praiseworthy; our loss, one man of Captain Andrews's company killed, and four of Captain Evans's company of Tennessee volunteers wounded. The reports give fourteen killed and several wounded of the enemy, and four women prisoners, from whom we learned that three hundred warriors had advanced from the town to aid those engaged, and, on seeing the advance of an army, fled precipitately. The army now advanced upon the town, which was found deserted by the enemy; and, on reaching the square, discovered a red pole planted at the council-house, on which were suspended about fifty fresh scalps, taken from the heads of extreme age down to the tender infant of both sexes, and, in an adjacent house, near three hundred more, which bore the appearance of having been the barbarous trophies of settled hostility for three or four years past.

The army continued the pursuit to a large pond of water, which is eight miles in length, varying in width from six hundred to four thousand yards, and from two to five feet deep, through which the army passed, when the approach of night induced the commanding General to draw off his troops. On the succeeding morning, Brevet Ma-

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Major General E. P. Gaines, with a large command, was ordered to pass the lake or pond, and attack the other towns, but which he found abandoned by the enemy. The red pole was again found planted in the square of Fowltown, barbarously decorated with human scalps of both sexes, taken within the last six months from the heads of our unfortunate citizens. General McIntosh, who was with General Gaines, routed a small party of savages near Fowltown, killed one negro, and took three prisoners, on one of whom was found the coat of James Champion, of Captain Cummings's company, (4th regiment of infantry,) who was killed by the Indians on board one of our boats descending the river to the relief of Major Muhlenburg. This coat, with nearly all Captain Cummings's company's clothing, was lost on board of Lieutenant Scott's boat, when he and his party were massacred, on the 30th of November last. The pocket-book of Mr. Thomas Leigh, who was murdered at Cedar Creek on the 21st of January last, was found in Kinghajah's town, containing several letters addressed to the deceased, and one to General Glasscock. About one thousand head of cattle fell into our hands, many of which were recognised by the Georgia militia as the brands and marks of their citizens. Near three thousand bushels of corn were found, with other articles useful to the army. Upwards of three hundred houses were consumed, leaving a tract of fertile country in ruin, where these wretches might have lived in plenty, but for the infernal machinations of foreign traders, if not agents. The army remained at this point until the morning of the 5th, when the march was resumed for St. Marks, before which it arrived on the evening of the 6th, and, after communicating with the commanding officer, took possession of that fortress on the following morning. Captain McKeever, of the navy, having sailed for St. Marks with some vessels containing supplies for the army, was fortunate enough to entice on board his vessel, in the river, Francis, or Hillis Hadjo, and Homathlamicco, hostile chiefs of the Creek nation, and whose settled hostility has been severely felt by our citizens. The commanding General had them brought on shore, and ordered them to be hung, as an example to deter others from exciting these deluded wretches to future scenes of butchery. A man of the name of A. Arbutnot was also taken on the arrival of the army; and placed in close confinement.

The troops having again received eight days' rations, and a garrison detached for Fort St. Marks, the army marched on the 9th of April, destined for Suwanee. On the morning of the 12th, the officer of the day reported that the sentinels had heard the lowing of cattle and barking of dogs during the night; from which the General was induced to send a runner to General McIntosh, who was encamped a short distance in rear of the army, with instructions to have the country below examined. In the mean time, the army moved slowly in advance. General McIntosh despatched Major Kanard with a party, who returned to him a runner reporting the dis-

covery of a hostile party too strong for his little band of warriors. McIntosh moved against them with his whole force. A small detachment of different companies of the Tennessee volunteers, under Colonels Dyer and Williamson, (they having joined the army on the evening of the 10th,) were left at our encampment to search for horses, and, on hearing the report of Major Kanard, formed themselves into a company under Captain Bell, who was with them, and moved to attack the enemy, whom they found near a large swamp, endeavoring to move off. A spirited engagement ensued, which resulted in the death of thirty-seven, and six men and ninety-eight women and children prisoners; and our loss, three killed and four wounded of the friendly Indians. The only woman out of seven whose life was spared at the massacre of Lieutenant Scott was here recaptured by Major Kanard. General McIntosh individually killed three of the enemy and captured one. The little band of Tennessee volunteers acted on this occasion as becomes their character. At the commencement of the action the army was halted, and a runner despatched to inform General McIntosh that any aid he might deem necessary would be afforded, and that the army would remain until his arrival, which was not until we encamped for the night. The enemy abandoned a number of horses, hogs, corn, and about six hundred head of cattle.

The army moved on the morning of the 13th, and on the succeeding day our spies surprised a camp consisting of two men, a woman, and two children. One of the men was killed; the other, with a small boy, slightly wounded; and the woman, unfortunately, not being distinguished in the swamp, received a wound of which she died. At three o'clock, P. M. on the 16th, the army arrived at a large pond within six miles of Bowlegs town, on Suwanee river, where a few Indians well mounted discovered our advance. An attempt was made to overtake them, but the enfeebled state of our horses rendered it impracticable. Under these circumstances, the General deemed it advisable to take the town by a forced march, not allowing the enemy time to cross the river and destroy their supplies. The manner of attack having been previously arranged, the army moved rapidly, until arriving near the large — which flanks the towns, when the troops changed position, conformably to previous orders, and moved forward. The left flank, composed of Colonel Williamson's regiment of Tennessee volunteers, at the head of which was a force of Indian warriors under Major (now Colonel) Kanard, soon came in contact, and warmly engaged the Indians and negroes; whilst the right flank, composed of Colonel Dyer's regiment of Tennessee volunteers, with a like force of warriors under General McIntosh, advanced near the river, to prevent the enemy from crossing. The centre advanced in excellent order, and under the expectation of having to combat with the strength of these towns and the fugitives from Mickasuky; but, on reaching Bowlegs town, found it abandoned. The left flank, from the nature of the

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ground they had to traverse, and Colonel Kanard not adhering entirely to the route designated, drove the Indians and negroes (about three hundred) into the river, before the right flank could occupy the desired position. The reports give eleven killed and three prisoners on the field, and it is believed many were killed and drowned in swimming the river, it being nearly three hundred yards wide. Colonel Kanard had thirteen wounded, but one dangerously. About twenty-seven hundred bushels of corn were obtained in the towns and neighboring swamps, near ninety head of cattle, and a number of horses. Our sentinels, on the night of the 17th, took prisoners two white men (Ambrister and Cook) and one negro, who had just returned from Arbuthnot's vessel at the mouth of Suwany; from the latter we obtained a letter written by A. Arbuthnot to his son, in which he enumerates the army of the United States under the General's command, and requires him to inform his friend Bowlegs that resistance would be fruitless against such an overwhelming force, and to make over the river with all despatch; admonishing his son, at the same time, to remove and secrete everything which could be moved. From Cook we learned that this letter was read to the negroes and Indians, when they immediately commenced crossing their families, and had just finished as we entered their towns. Upwards of three hundred houses were here consumed, the most of which were well built and somewhat regular, extending near three miles up the river. On the morning of the 18th General Gaines was ordered, with a select command, and a number of warriors under General McIntosh, to cross the Suwany river in pursuit of the enemy; but found, on advancing about six miles, that they had dispersed in every direction, from the numerous trails, and too far advanced to overtake them, his command being short of supplies. A detachment of the warriors, having advanced some distance, fell in with a small party of the enemy, killed three warriors, took some women and children and five negroes. On the same morning, Lieutenant James Gadsden, aid-de-camp to the commanding General, descended the Suwany river to its mouth, with Captain Dunlap's and a few of Captain Crittenden's companies of the life-guard, and a small detachment of regulars, and captured, without difficulty, the schooner of A. Arbuthnot, which had brought supplies of powder and lead to the Indians and negroes settled at Suwany. This vessel afforded the means of transporting our sick back to St. Marks. On the evening of the 20th, General Glasscock was ordered, at his request, to march his brigade by Mickasuky to Hartford, in Georgia, and Captain Bell ordered to muster them out of service; and the army moved about three-quarters of a mile preparatory to its return. On the 24th General McIntosh was ordered to proceed direct to Fort Scott, on Flint river, and an order furnished him to the commanding officer to muster his warriors out of service.

The army reached Fort St. Marks on the 25th, having marched twenty-eight miles on that day,

and we were agreeably surprised in finding Lieutenant Gadsden had arrived safely that evening from the mouth of Suwany. On the 26th a special court was ordered for the trial of A. Arbuthnot and Robert C. Ambrister; which court, on the documents and evidence adduced, sentenced the first to be hung, and the latter to be shot. They were accordingly executed on the morning of the 29th. The army moved and encamped four miles from St. Marks on the evening of the 28th, and arrived at Fort Gadsden on the 2d instant; the General having previously detached a garrison of two hundred men, under the command of Brevet Major Fanning, to occupy Fort St. Marks. I have only to add, that this army has borne hardships and privations to a great extent, in a manner becoming soldiers and citizens of a nation proud of their liberties. The assistant topographical engineer will furnish a topographical report of the country through which the army operated; and I refer you to the enclosed sketches for information of our order of movement, and have the honor to be, very respectfully, your obedient servant,

R. BUTLER, *Adj. Gen.*

Brig. Gen. DANIEL PARKER,  
*Adjutant and Inspector General.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort Gadsden, March 25, 1818.*

SIR: I have ordered a supply of provisions to be sent from New Orleans, via Pensacola, to Fort Crawford, on the Caneucho. This route has been adopted as the most speedy one of provisioning one of my garrisons which must be maintained during the present conflict against our mutual enemies, the Seminole Indians, and I cannot but express a hope that no attempt will be made to interrupt the free passage of my transports to that post. I am not disposed to enter into any controversy with you on the rights which our Government may claim to the free navigation of such water-courses as head within her limits, but flow through the territory of His Catholic Majesty, preferring to leave these subjects to be settled by those legally authorized; but as it is necessary for me to make use of the Escambia river in passing up provisions to the garrison at Fort Crawford, I wish it to be distinctly understood, that any attempt to interrupt the passage of transports cannot be viewed in any other light than as a hostile act on your part. I will not permit myself for a moment to believe that you would commit an act so contrary to the interest of the King your master. His Catholic Majesty, as well as the Government of the United States, are alike interested in chastising a savage foe, who have too long warred with impunity against his subjects as well as the citizens of this Republic, and I feel persuaded that every aid which you can give, to promote this object, will be cheerfully tendered.

ANDREW JACKSON,  
*Major General commanding.*

DON JOSE MAZOT, *Governor of Pensacola.*

*Defeat of the Seminole Indians, &c.*

HEADQ'RS. DIVISION OF THE SOUTH,  
Before St Marks, April 6, 1818.

SIR: To chastise a savage foe, who, combined with a lawless band of negro brigands, have for some time past been carrying on a cruel and unprovoked war against the citizens of the United States, has compelled the President to direct me to march my army into Florida. I have penetrated to the Mickasuky towns, and reduced them to ashes. In these towns I found many indications of a hostile spirit. On a red pole in the centre of the council-houses of Kenhagas town, more than fifty fresh scalps, of all ages, from the infant to the aged matron, were found suspended. In addition to this, upwards of three hundred old scalps were found in the dwellings of the different chiefs settled on the Mickasuky pond. Those barbarians who escaped death have fled. From information communicated by the Governor of Pensacola to two of my captains, Gordon and Call, I was induced to believe they had fled to St. Marks for protection. The Governor stated that the Indians and negroes had demanded of you large supplies of munitions of war, with a threat, in the event of a refusal, of taking possession of your fortress. He further expressed an apprehension that, from your defenceless state, they were already in possession of St. Marks. The wife of Chenubby, a noted chief, now a prisoner in my camp, informed me that the hostile Indians and negroes obtained their supply of ammunition from St. Marks. To prevent the recurrence of so gross a violation of neutrality, and to exclude our savage enemies from so strong a hold as St. Marks, I deem it expedient to garrison that fortress with American troops, until the close of the present war. This measure is justifiable on the immutable principle of self-defence, and cannot but be satisfactory, under existing circumstances, to His Catholic Majesty, the King of Spain. Under existing treaties between our two Governments, His Catholic Majesty, the King of Spain, is bound to preserve in peace with the citizens of the United States not only his own subjects, but all Indian tribes residing within his territory. When called upon to fulfil that part of the treaty in relation to a savage tribe who have long depredated with impunity on the American frontier, incompetency is alleged, with an acknowledgment that the same tribe have acted in open hostility to the laws, and invaded the rights of His Catholic Majesty. As a mutual enemy, therefore, it is expected that every facility will be afforded by the agents of the King of Spain to chastise these lawless and inhuman savages. In this light is the possession of St. Marks by the American forces to be viewed. I come not as the enemy but as the friend of Spain. Spanish rights and property will be respected. The property and rights of Spanish subjects will be guaranteed them. An inventory of all public property, munitions of war, &c., shall be made out and certified by an officer appointed by each of us, and a receipt given for the same, to be accounted for to His Catholic Majesty by the United States. The subject of my possession of the garrison of St.

Marks will be referred to our respective Governments, for amicable adjustment. Some armed vessels of the United States are in the bay of St. Marks, with whom I wish to communicate. You will, I trust, furnish me with a small vessel to convey a letter, as well as some sick and wounded that are with me. As our mutual savage enemies are concentrating their forces near or on the Suwaney, an early and prompt answer is requested to this letter, with an English translation, as neither myself nor staff are acquainted with the Spanish.

This will be handed to you by Aid-de-camp Lieutenant James Gadsden, by whom an answer is expected, I have, &c.

ANDREW JACKSON,  
Major General commanding.

The COMM'G OFFICER, St. Marks.

ST. MARKS, OFF APPALACHIE,  
April 7, 1818.

MOST EXCELLENT SIR: Being made to understand, although with the greatest difficulty, the contents of a letter with which your excellency honored me yesterday evening, delivered to me by your aid-de-camp James Gadsden, I will declare to your excellency the satisfaction the knowledge of the result of your expedition against Mickasuky has afforded me. That such would be the event could not be doubted, on considering the superior talents and skilful conduct of your excellency; and to these must be attributed the success, on which I tender you my most cordial congratulation.

My chief, the Governor of Pensacola, had in truth reason to mention to your captains, Gordon and Call, what your excellency states to me, and to entertain fears for the fate of this fort, menaced by Indians and negroes for some months past, and particularly since they have been disappointed in their expectations of obtaining powder and balls, which they have so repeatedly solicited, and to which they thought themselves entitled, from the practice which subsisted of supplying them annually therewith. This proves how entirely unfounded is the assertion of the wife of the chief Chenubby, that the Indians have been supplied with munitions in this fort since I was advised and I determined to maintain the most perfect neutrality. No one can better remove from your excellency's mind any unfavorable opinion you may have formed on this subject than the bearer, William Hambly, as he has at various times interpreted to me the solicitations of the several Indian chiefs in my neighborhood; and he can also inform you of the advice I always gave them—to avoid the destruction which has overtaken them, and which I foresaw from the beginning.

This being realized, and there being now no motive to fear any insult to the fort from these barbarians and the negroes, I beg permission of your excellency to call your attention to the difficulty I should involve myself in with my Government, if I were presently to assent to what your excellency proposes to me, to garrison this

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fort with the troops of the United States, without first receiving its orders. Such I will solicit immediately an opportunity offers, and I do not for a moment doubt that they will be given to me; so zealous is my Government to comply with the stipulations between her and the United States. In the interim I hope your excellency will desist from your intention, and be firmly persuaded of the good faith and harmony which will reign between this garrison and whatever troops you may think fit to leave in this vicinity, who may assist me in the defence of this fort on any unforeseen event.

The sick your excellency sent in are lodged in the royal hospital, and I have afforded them every aid which circumstances admit. I hope your excellency will give me other opportunities of evincing the desire I have to satisfy you.

I trust your excellency will pardon my not answering you as soon as requested, for reasons which have been given you by your aid-de-camp. I do not accompany this with an English translation, as your excellency desires, because there is no one in the fort capable thereof; but the before named William Hambly proposes to translate it to your excellency in the best manner he can.

May our Lord preserve your excellency many years. Such is my prayer. Most excellent sir, I kiss your excellency's hands, and am your most obedient and devoted servant,

**F. CASO Y LUENGO.**

The Most Ex't A. JACKSON,  
*General-in-Chief, &c.*

**HEADQ'RS, DIVISION OF THE SOUTH,**  
*Camp near St. Mark's, April 7, '18.*

SIR: I refer you to my communications of yesterday, for the motives which have compelled me to occupy the fort of St. Mark's. I again repeat that I have entered the territory of Spain as a friend, to chastise a mutual enemy of both nations, and whom His Catholic Majesty was bound, under the most sacred of treaties, to have punished himself. Peculiar circumstances, however, have prevented, and it was therefore expected that every facility would have been given to the American arms, to have insured success to their operations. The occupation of St. Mark's is essential to the accomplishment of my campaign, and is peculiarly so at this period, when evidence is derived from every source of the designs of the negroes and Indians against that fortress. They are now concentrating with the intention of taking possession of St. Marks the moment my army moves from its vicinity, the dislodging them from which will cost me more American blood than I am disposed should be shed. Success to my operations requires despatch; you will excuse me, therefore, in refusing your request that a suspension should be granted until a permit is obtained from your Government, and on insisting that Fort St. Marks should be immediately occupied by American troops.

Major Fanning, my inspector general, and

Lieut. Simmons, of the Ordnance Department, are appointed to act, with one or two officers nominated on your part, to take an inventory of, and inspect all public property in the fort of St. Marks, for which receipts will be given in the name of the American Government. Any disposition which you would wish made with the private property of yourself, officers, and soldiers, or any other arrangements gratifying to yourself, will be settled by my aid-de-camps, Lieutenants Gadsden and Glassell.

**ANDREW JACKSON,**

*Major General commanding.*

**Don F. CASO LUENGO,**  
*Commanding Fort St. Marks.*

*APPALACHIE, April 7, 1818.*

**MOST EXCELLENT SIR:** I should insist on what I stated to your excellency in my letter of this morning, as to the necessity of awaiting orders from the Governor of Pensacola for the delivery of this fort under my command, were I not, in addition to what your excellency says in your answer, threatened by your aid-de-camp and the other officers appointed to negotiate on the subject; and had not so large a body of troops entered, without awaiting my permission, and taken possession of all the stores and posts, lowering the Spanish flag, and hoisting the American.

So manifest a violation of the territory of His Catholic Majesty obliges me to complain of it, and to protest against it; and I accordingly do protest against it, and beg of your excellency to provide me, as speedily as possible, the vessels necessary to transport me to Pensacola, together with the troops and those persons who are in the royal employ; and also to give orders that, in the interim, the private property and effects of every Spanish individual here be respected. With respect to the public property of His Catholic Majesty, I have nominated the subaltern officer of this detachment and commissary of the fort to make, with the three officers whom you name to me, an inventory thereof.

I repeat to your excellency my respects, and prayers to God to preserve your life many years. Most excellent sir, I kiss your excellency's hands. Your most obedient and devoted servant,

**FR. CASO Y LUENGO.**

The Most Ex't A. JACKSON,  
*General U. S. troops before St. Marks.*

**HEADQ'RS, DIVISION OF THE SOUTH,**  
*Camp, near St. Marks, April 7, 1818.*

SIR: I have received your protest against my proceedings. The occupancy of Fort St. Marks by my troops, previous to your assenting to the measure, became necessary from the difficulties thrown in the way of an amicable adjustment, notwithstanding my assurances that every arrangement should be made to your satisfaction, and expressing a wish that my movements against our common enemy should not be retarded by a tedious negotiation. I again repeat what has

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been reiterated to you through my aid-de-camp, Lieutenant Gadsden, that your personal rights and private property shall be respected; that your situation shall be made as comfortable as practicable while compelled to remain in Fort St. Marks; and that transports shall be furnished, as soon as they can be obtained, to convey yourself, family, and command, to Pensacola. I daily expect some vessels from the bay of Appalachicola; as soon as they arrive, the most suitable shall be selected for said purpose.

ANDREW JACKSON,  
Major General commanding.

DON. FR. CASO Y LUENGO,  
Governor of St. Marks.

PENSACOLA, April 16, 1818.

MOST EXCELLENT SIR: Your excellency's letter of the 25th of the last month has been delivered to me, and also that of the 26th, in answer to mine of the 16th of February last. I have the honor to advise your excellency the receipt of both, and to answer the former.

In the month of May, of the last year, from a spirit of conciliation I permitted a cargo of provisions, which the schooner *Mobiterra* had brought from New Orleans to this place, to pass up the Escambia to Fort Crawford. Influenced by the same sentiments, I made a similar concession to Captain Call, assenting to the transporting of the cargo brought by the schooner *Italiana*, in January last, to the said destination; and, more lately, in continuance of the same amicable and conciliatory spirit, I consented that Lieutenant Eddy, of the garrison of the before named fort, (commissioned by its commander, Major Young, for the purpose,) should procure sixty-barrels of provisions in this place; and the cargo of the schooner *Italiana* (which is, or ought to be, deposited here) not being yet exported, I do not think the further introduction of provisions, which your excellency asks at present necessary; but, nevertheless, as I infer from your excellency's letter that these provisions are already on their passage, in pursuance of the sufferance hitherto accorded, and observing the restrictions and course established, that is, to consign them to a Spanish commercial house, who will take care to forward them, and pay the royal duties of import and export, I will allow the same destination to be given to them as to the former, provided that the Government of the United States shall not set up, or derive any right, either now or hereafter, from these purely gratuitous concessions, as I make them from the obligation of existing circumstances, which do not admit of supplying the garrison of the before named Fort Crawford by any other way.

In accordance with the declaration of your excellency, when you add it is not your intention to enter into a discussion with me in relation to the right which the United States may claim to the free navigation of the Escambia, so neither is it mine to discuss this subject with your excellency, as well because it does not fall within my

duties, as that, being a subordinate officer, I am bound to obey the superior on whom I depend, it being my duty, until I receive instructions to the contrary, to be governed on this head by the treaties existing between the United States and Spain; and in the last, of amity, limits, and navigation, I do not see the before named river mentioned, but the sovereignty of the King, my master, over all the territories, rivers, coasts, ports, and harbors lying South of 31° North, solemnly and explicitly recognised by the United States; and, if extraordinary and existing circumstances should require any further temporary concessions, not explained in the said treaty, I request your excellency to have the goodness to apply, in future, for the obtaining of them, to the proper authority, as I, for my part, possess no power whatever in relation thereto.

May God preserve your excellency many years.  
JOSE MAZOT.

His Ex<sup>cy</sup> A. JACKSON,  
Major General, &c.

HEADQ<sup>RS</sup>. DIVISION OF THE SOUTH,  
Fort St. Mark's, April 27, 1818.

SIR: After I left this port for St. Juan, to disperse and destroy the mutual enemy of Spain and the United States, a small schooner, with men and supplies, arrived from Pensacola, and was taken possession of and detained by my officer left in command. This vessel has been liberated with all her effects, excepting some clothing of the United States unaccompanied with any invoice, and which has been detained, as supposed to be a part of that taken on board the boats within the territory of this Republic, in which Lieutenant Scott, of the United States army, with his command, were so inhumanly massacred.

I regret being compelled to state to you, that, from the papers and proofs taken at San Juan's; the quantity of American cattle found at St. Marks, and purchased by me from the commissary of the post; and the intercourse kept up between this post and the hostile Indians, there is too much ground to believe that the Indians have been encouraged, aided, and abetted by the officers of Spain in this cruel war against the United States. Proof positive exists that the Indians were supplied with ammunition by the late commandant of St. Marks. The United States clothing being found on board of a vessel in the employ of the Government of Spain, sailing from Pensacola direct for this port, compels me to call on you for a statement in what manner you came possessed of said clothing. The good understanding that so happily exists between His Catholic Majesty and the United States formed a just ground to believe that his agents would have discountenanced this cruel and savage war against the citizens of this Republic. Spain, too weak to comply with her treaties with the United States, or chastise her own savage subjects, waging war against a friendly nation, it was scarcely to be believed that her officers would have been detected in aiding and abetting the enemy, assisting

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with the intelligence of our movements, and purchasing the property depredated of us. America, just to her treaties, and anxious to maintain peace with the world, cannot and will not permit such a savage war to be carried on in disguise any longer. Asylums have been granted to the persons and property of an Indian foe, (fugitives from the territory of the United States;) facilities, deemed by me necessary to terminate a war which, under existing treaties, should have been maintained by Spain; for feeding my troops; and liberating the subjects of Spain imprisoned by the Indians; have all been denied by the officers of His Catholic Majesty. All these facts prove the unjust conduct of Spanish agents in Florida. It cannot be longer tolerated, and although a Republic fond of peace, the United States know their rights and at the expense of war will maintain them.

Your obedient servant,  
**ANDREW JACKSON,**  
*Major General commanding.*

**DON JOSE MAZOT,**  
*Governor of Pensacola.*

No. 2.

*Copy of a note of the Commandant of West Florida to Major Young, at the encampment, banks of the Escambia.*

PENSACOLA, April 27, 1818.

SIR: Your note of the 27th, dated encampment on the Escambia and Fort Crawford, accompanying the proclamation which you were pleased to enclose, were delivered to me at three o'clock this afternoon by an artificer, a man of color, whose speedy return not allowing me at present to answer them in detail, I shall merely state, that the small number of peaceful Indians who were in this place and in its vicinity retired on the 26th, at the dawn of which day several of them, both women and children, were killed by the troops of the United States. As it is not my purpose to investigate the motives of this act, or of the violation, resulting from it, I shall only say that, in compliance with my duty, I shall give an account of the whole proceeding to my superior; and, in the meantime, I hope you will allow no further hostilities to be committed on this territory, on any pretence whatever. If the Indians should give any further cause of complaint, I trust you will inform me of it, that they may receive due punishment, should that depend on my authority. If there are any Indians still remaining within this territory, I will have them sought for and informed of your letter, and advise you of the result. I can assure you, both under my hand and on my word, that the information, as stated in your letter, of the aggressions committed by the Indians is the first I have had of them, for at the time I agreed to the return of the escort referred to, I had no knowledge of any others than those who were concerned in the attack on Lieutenant Eddy. I repeat to you the assurance that my wishes and efforts are wholly directed to preserve the peace happily subsisting between our Governments. In

a full confidence in your favorable sentiments, I beg leave to offer you my respectful salutations.

God preserve you many years.

**JOSE MAZOT.**

To Major W. YOUNG,  
*Com'g Am. troops on the Escambia*

*Copy of a note from Jose Mazot to Major W. Young.*

PENSACOLA, April 30, 1818.

SIR: In consequence of the request expressed in your letter of the 27th instant, I assembled the chiefs of the Upper Creeks at the villages of Colome, Canaan, Cowale, and Forsatche, and communicated to them the contents of your letter. They all replied that they had for a long time been very miserable and wretched, without shelter or home, that by the counsel of a good friend they had at length found one, that they had listened attentively to it, and accepted with gratitude the offers you had made them. These Indians are about eighty-seven in number, including women and children. They agreed to divide themselves into three parties, and set out on their march, as soon as I received your answer, which they thought it would be prudent for them to keep; and that when you were informed of their resolution, you would give the necessary orders for their safe progress, and avoiding any encounter with the Choctaws, who, if not seasonably apprized of the circumstances, might attack them, in which case the pacific arrangements, in which we both take so strong an interest, would be entirely defeated. Opaht-hola, an Ali-liamion chief, on account of his advanced age, and infirmities will, for the present, remain here with his family. I have given orders for his relief, and pledge myself for his good behaviour. You will always find me disposed, sir, to promote any measure conducive to the mutual interests of our two countries, which may, at the same time, be in conformity with existing treaties. I offer you the renewed assurances of my respect, and I pray God to preserve you.

**JOSE MAZOT.**

To Major WHITE YOUNG.

PENSACOLA, May 2, 1818.

True copies of the letter and documents deposited in the archives of this command.

In the absence of the Secretary, (by indisposition,)

**BUEN. DUBIEUIL.**

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort Montgomery, June 2, 1818.*

SIR: The Seminole war having terminated, I deem it politic and advisable to send to Washington John Blunt and his Indian comrades, who have acted as pilots to me during the late campaign. John Blunt is a Tuckabatchee Indian, has long been friendly to the United States, and in consequence of his opposition to the Red Stick party during the Creek war has drawn down upon himself their vengeance during the

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late contest. His settlement being in an exposed situation on the Appalachicola river, he was early attacked by Seminoles, his property destroyed, and his family rifled from him; alone he escaped and fled to Fort Scott, where, joining the American standard, he has proved himself a most zealous friend and faithful pilot to this period. In justice to him I am bound to state, that to his correct knowledge of the country and zealous attachment to the cause in which we were engaged, I am measurably indebted for the success of the present campaign.

Mr. Hambly accompanies John Blunt. Mr. H. is a Spanish subject by birth, and has long been a resident as a trader on the Appalachicola river. In consequence of his attachment to the American cause, and his active exertions to check the hostile feelings of those Indians disposed to war against the United States, he drew down upon himself and family their vengeance. He was forcibly taken from his house at an early period of the war; his property, goods, and negroes taken from him, and he violently transported from Mickasukee, Suwanee, and St. Marks, until finally relieved by Captain McKeever of the American Navy; since which period he has been attached to my army as Indian interpreter. You will find him an honest and faithful friend of our Government, and valuable for the information which he can afford of Spanish policy and intrigue. He is well acquainted with all the transactions of foreign agents in this country, of their practices, &c., and how far encouraged by the Spanish authority, &c. With respect, &c.

ANDREW JACKSON,

*Major General commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

HEADQ'RS, DIVISION OF THE SOUTH,

*Fort Montgomery, June 2, 1818.*

SIR: In a communication to you of the 5th of May, I detailed at length the operations of my army up to that period. Leaving a strong garrison of regulars in Forts Scott and Gadsden, I resumed my march, with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding twelve hundred men, to fulfil my intentions, communicated to you, of scouring the country west of the Appalachicola river. On the 10th of May, my army crossed that river at the Ochesee village, and, after a fatiguing, tedious, and circuitous march of twelve days, misled by the ignorance of our pilots, and exposed to the severest of privations, we finally reached and effected a passage over the Escambia. On my march, on the 22d of May, a protest from the Governor of Pensacola was delivered me by a Spanish officer, remonstrating in warm terms against my proceedings, and ordering me and my forces instantly to quit the territory of His Catholic Majesty, with a threat to apply force in the event of a non-compliance. This was so open an indication of a hostile feeling on his part, after having

been early and well advised of the object of my operations, that I hesitated no longer on the measures to be adopted. I marched for and entered Pensacola with only the show of resistance, on the 24th of May. The Governor had previously fled to Fort Carlos de Barancas, where, it was said, he had resolved upon a most desperate resistance. A correspondence ensued between us, (accompanying this, marked A,) detailing at length my motives for wishing and demanding that Pensacola and its dependencies be occupied with an American garrison. The package marked B are documents substantiating the charges, in part, against the conduct of the Spanish Governor, having knowingly and willingly admitted the savages, avowedly hostile to the United States, within the town of Pensacola.

The peaceable surrender of the fort at the Barancas was denied. I marched for and invested it on the evening of the 25th of May, and on the same night pushed reconnoitering parties under its very guns. On the morning of the 26th, a military reconnoissance was taken; and on the same night, a lodgement was made, under a fire from the Spanish garrison, by Captain Gadsden of the engineers, aided by Captains Call and Young, on a commanding position, within three hundred and eighty-five yards of the Spanish works, and a nine-pounder mounted. A howitzer battery was simultaneously established on the capitol of, and within seven hundred and fifty yards of the fort. At daylight on the 27th, the Spanish garrison opened their artillery on our batteries; a parley was sounded, a flag sent in and the surrender of Fort Carlos de Barancas again demanded; the favorable positions obtained were pointed out, and the inutilty of resistance urged. Anxious to avoid an open contest, and to save the effusion of blood, the same terms previously offered were again tendered. These were rejected, and offensive operations recommenced. A spirited and well-directed fire was kept up the greater part of the morning, and at intervals during the afternoon. In the evening a flag was sent from the Spanish commandant, offering to capitulate, and a suspension of hostilities was granted until eight o'clock next day, when the enclosed articles of capitulation (marked C) were signed and agreed to. The terms are more favorable than a conquered enemy would have merited; but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those whose military pride or honor had prompted to the resistance made. The articles, with but one condition, amounted to a complete cession to the United States of that portion of the Floridas hitherto under the government of Don Jose Mazot.

The arrangements which I have made to secure Pensacola and its dependencies are contained in the general orders, marked D. I deemed it most advisable to retain, for the present, the same government to which the people had been accustomed, until such time as the Executive of the



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United States may order otherwise. It was necessary, however, to establish the revenue laws of the United States, to check the smuggling which had been carried on successfully in this quarter for many years past, and to admit the American merchant to an equal participation in a trade which would have been denied under the partial operations of the Spanish commercial code.

Capt. Gadsden was appointed by me collector, and he has organized and left the department in the charge of officers on whom the greatest confidence may be reposed.

Though the Seminole Indians have been scattered, and literally so divided and reduced as no longer to be viewed as a formidable enemy, yet, as there are still many small marauding parties supposed to be concealed in the swamps of the Perdido, Choctawhatchy, and Chapouley, who might make occasional and sudden inroads on our frontier settlers, massacring women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under Captains McGirt and Boyles, with instructions to scour the country between the Mobile and Appalachicola rivers, exterminating every hostile party who dare resist, or will not surrender and remove with their families above the thirty-first degree of latitude.

The Seminole war may now be considered as at a close, tranquillity again restored to the southern frontier of the United States; and, as long as a cordon of military posts is maintained along the Gulf of Mexico, America has nothing to apprehend from either foreign or Indian hostilities. Indeed, sir, to attempt to fortify or protect an imaginary line, or to suppose that a frontier on the thirty-first degree of latitude, in a wilderness, can be secured by a cordon of military posts, whilst the Spanish authorities were not maintained in the Floridas, and the country lay open to the use and excitement of any enemy, is visionary in the extreme. On the immutable principles, therefore, of self defence, authorized by the law of nature and of nations, have I bottomed all my operations; on the fact that the Spanish officers had aided and abetted the Indian enemy, and thereby became a party in hostilities against us, do I justify my occupying the Spanish fortresses. Spain had disregarded the treaties existing with the American Government, or had not power to enforce them; the Indian tribes within her territory, and which she was bound to keep at peace, had visited our citizens with all the horrors of savage war; negro brigands were establishing themselves when and where they pleased; and foreign agents were openly and knowingly practising their intrigues in this neutral territory. The immutable principles of self-defence justified, therefore, the occupancy of the Floridas, and the same principles will warrant the American Government in holding it until such time as Spain can guarantee, by an adequate military force, the maintaining her authority within the colony.

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A topographical sketch, of the country from the Appalachicola to Pensacola Bay, accompanies this. Captain Young will prepare, as soon as practicable, a topographical memoir of that part of the Floridas in which my army has operated, with a map of the country. Captain Gadsden is instructed to prepare a report on the necessary defences of the country, as far as the military reconnoissance will permit, accompanied with plans of existing works, what additions or improvements are necessary, and what new works should, in his opinion, be erected to give permanent security to this important territorial addition to our Republic. As soon as this report is prepared, Captain Gadsden will receive orders to repair to Washington City with some other documents which I may wish to confide to his charge.

At the close of a campaign which has terminated so honorably and happily, it gives me pleasure to express my approbation generally of the officers and soldiers of every species of corps which I have had the honor to command. The patience with which they endured fatigue and submitted to privations, and the determination with which they encountered and vanquished every difficulty, are the strongest indication of the existence of that patriotic feeling which no circumstances can change, and of that irresistible ardor in the defence of their country which will prove her strength and bulwark under any exposure. I should do violence to my feelings if I did not particularly notice the exertions of my quartermaster general, Colonel George Gibson, who, under the most embarrassing circumstances, relieved the necessities of my army, and to whose exertions I was indebted for the supplies received. His zeal and integrity in this campaign, as well as in the uniform discharge of his duties since his connexion with my staff, merit the approbation and gratitude of his country.

With respect, yours, &c.

ANDREW JACKSON,

*Major General commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

PENSACOLA, May 18, 1818.

MOST EXCELLENT SIR: On the 10th instant I received your excellency's letter of the 27th of April last, informing me that some articles of clothing used by the troops of the United States, and supposed to be part of those taken in the boat in which Lieutenant Scott and his escort were so inhumanly murdered, were found in a small schooner despatched from this port for that of Appalachee with provisions.

Your excellency inquires of me in what manner these articles came into my possession; and you further state that you feel yourself obliged to inform me that the documents and the proofs found in St. Juan, the detention of American cattle, found in St. Marks, and the correspondence carried on between this post and the hostile Indians, are sufficient to create a belief that they were

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armed and incited to this cruel war against the United States by the Spanish officers.

Your excellency adds that there exists positive proofs that the Indians were supplied with munitions by the last commander of St. Marks; and you conclude by saying that an asylum has been granted here to the persons and property of the Indians, who are enemies to the United States, and fugitives from the American territory; and that these proceedings, and the refusing to allow the passage of provisions for your troops, prove the unjust conduct of the Spanish agents in the Floridas.

I shall answer the charges alleged in their proper order, and without evasion or reservation.

The first complaint made by your excellency is relative to the articles of clothing found on board the schooner Maria, and which have been detained on the supposition that they are the property of the United States.

Part of these articles, as is proved by copy No. 1, were purchased at New Orleans in the month of May, last year; part came from the Havana; and part were purchased in this place. All this is established. The charge is, of course, done away, and your excellency's question is satisfactorily answered.

The succeeding one is more serious, and relates to the course observed of late by the Governor of St. Marks.

I immediately required of him an account of his conduct, and he made me the communication found in copy No. 2. However, your excellency affirms that you possess positive proofs of the misconduct of this officer, I must, as a necessary consequence, entreat you to submit them to me, that, the fact being established, I may inflict on him deserved punishment. I assure your excellency, with the sincerity natural to me, that he has acted in entire opposition to his instructions; and that, if your excellency will transmit the proofs I request, he shall be brought before a council of war, and punished with all the severity his transgressions deserve; but your excellency will be just enough to allow that the Spanish Government cannot be responsible for the misconduct of its agents, when it neither upholds them therein, nor suffers their mal-practices, being ascertained, to pass unpunished.

The last complaints of your excellency have a personal and direct application to myself, and are relative to the asylum granted to the persons and property of the fugitive Indians, and to the passage of provisions up the Escambia. It is easy for me to remove these charges, and I think your excellency will be satisfied with a short and true relation of facts.

With respect to the Indians, your excellency has been assuredly misinformed, as, although it is true that some remained here, the greater part of them were women and children, who procured a subsistence by furnishing the inhabitants with wood, fish, and other trifling objects, and were here before the present war with the Seminoles. Others, now and then, assembled on account of the war, but in very small numbers; as, when I

had them collected, in compliance with the proposition made by Major Young, they, altogether, amounted to eighty-seven, and, assuredly, these few unarmed and miserable men were not hostile to the United States. The continual passing of American citizens from the frontier to this people, who travelled alone and unarmed among them, without being, at any time, insulted or molested in their persons or property, is a proof of this.

With respect to the passage of provisions up the Escambia, I have not hitherto prevented it, but, on the contrary, have facilitated it so far as I was able, and my limited powers have permitted, even to the committing of myself; for, being only a subordinate officer, I could not consent to it, as it is unauthorized, but I took the responsibility on myself, in consideration of existing circumstances, and so I stated to your excellency in my letter of the 15th of last month, which I wrote to you by Major Perault, and to which I refer you in support of my assertion. Now, that the free commerce of this people with those of the interior is declared admissible by higher authority, there will, in future, be no difficulty in allowing the merchants to transport from hence to Fort Crawford, and other forts on the frontier, as well by water as by land, whatever provisions and effects they may need or desire; by which means these posts will readily be provisioned, and your excellency will be satisfied.

I think I have answered your excellency's letter satisfactorily, and in a manner which can leave no doubt of the sincerity of my intentions, and which evinces my desire to contribute, so far as depends on me, to the good understanding existing between our respective Governments.

God preserve your excellency many years.  
JOSE MAZOT.

His Exc<sup>y</sup> ANDREW JACKSON,  
*Major General U. S. Army.*

No. 1.

PENSACOLA, May 18, 1818.

Being informed of what, amongst other subjects, Major General Andrew Jackson, of the United States troops, states to you in his letter of the 27th of April last, and communicated to me in yours of the 13th instant, in which you direct me to explain to you what description the articles were, referred to by the said General, and by whom the coats worn by the men belonging to the Grey and Brown companies, (*de pardos y morenos*), from the Havana, under my command, were sold or brought to this place, they being the same uniform as that worn by the troops of the United States, I have to inform you, in reply, that the articles of clothing shipped on board the schooner Maria, for the supply of a detachment from the aforesaid companies at Appalachie, and detained by General Jackson, consisted of fifteen four-point woollen blankets, brought here in His Majesty's hermaphrodite brig *El Don Henrique Granpré*, as is shown by voucher No. 1, annexed; 15 common black hats, bought of Don

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Henrique Michelet, as is proved by voucher No. 2; and 20 shirts of Crea linen, and the same number of pantaloons, received by the above named hermaphrodite armed brig, with the exception of three or four of the latter articles, which were made in North America for the use of their troops, and came into my possession in the manner I shall explain to you. All which clothing I requested you, in mine of the 7th April last, to report to the Department of Royal Finance, that they might be regularly entered in the clearance, on account, and at the risk, of the same. By voucher No. 3, annexed, you will perceive that, on the 1st and 6th of May, and 29th of July last, there were shipped for me, from New Orleans, by Don Pedro Dalhaste y Claveria, merchant and citizen of the United States, one hundred and thirty-one coats of the uniform altered there, as is stated in his letter of advice; also twenty-eight pairs of shoes; one hundred and eighteen shirts; seventy-six pairs of pantaloons; two hundred and thirty-six woollen waistcoats, without sleeves; twenty Russia jackets; two hundred and fifty-three leather caps, for the use of the Chasseurs; and a quantity of leather gaiters and stocks; which articles were purchased from the military storekeeper at New Orleans, and brought here in the schooners Maria and Jalouse, under the charge of their masters, Bartelome Alberty and Joze Medina, who included them in the manifests they presented to the custom-house here, and the duties on them were paid, as appears from the estimate of them, made by the Department on the 19th of May and the 11th of August last. It follows, from this statement, that the conjecture formed by General Jackson, that the articles of clothing detained by him were part of those taken from the escort of Lieutenant Scott at the time he was killed, within the territory of the Republic, is deprived of all foundation, as the unfortunate fate of that officer and his escort happened on the Appalachicola in December last; and the articles of clothing alluded to were purchased in New Orleans in May and July of the same year, as is proved by the letters of advice and invoices comprised in voucher No 3, to which I have referred. God preserve you many years.

B. GARCIA CALDERON.

To Don JOSE MAZOR.

No. 1.

I hereby certify that, on the 10th of February last, I sold to Captain Don Benigno Garcia Calderon, commanding the Grey and Brown companies from Havana, two hundred and eighteen pairs of French shoes, iron shod, for the use of the men belonging to the said companies; and, at the request of the said officer, I give him the present certificate, at Pensacola, this 18th day of May, 1818.

HENRIQUE DE GRANPRE.

No. 2.

I hereby certify that, on the 12th of February last, I sold to Captain Don Benigno Garcia Cal-

deron, commanding the Grey and Brown companies from the Havana, nine dozen round black hats, for the use of the men belonging to the said companies; and, at the request of the said officer, I give him the present certificate, at Pensacola, this 18th day of May, 1818.

HENRIQUE MICHELET.

No. 3.

NEW ORLEANS, April 30, 1817.

Annexed you have an account of cost and charges of fifty-four shirts and twenty-eight pairs of shoes, for amount whereof you are debited, in account, fifty-three dollars. Although I had no orders from you for the shirts, I was induced to purchase them by the low price, and the probability of your employing them to advantage. In the sack which contains them, you will find a uniform coat, altered here, and which can be obtained of the storekeeper at twelve rials. I think this would answer. There are about a hundred and twenty of them. I am offered by the same storekeeper fifty field-tents, nearly new, at three dollars, and a parcel of strong leathern caps, such as are worn by the Chasseurs, and which he will sell at less than two rials; of these there are about two hundred. The storekeeper having made me a second offer of the coats, I proposed to take them in barter for coffee, at eighteen and a half. At ten rials, I am persuaded it would be a good bargain, and would afford an opportunity of putting off the coffee, the low quality of which makes it a dull sale. The only quality asked for, and which sells with great difficulty at twenty dollars, is the very superior green coffee. I enclose the account of the cost and charges of the said coats, which you will receive by the schooner Maria, and whose amount is charged to your debit, in account current, viz: \$176 13.

Account of cost and charges of the following articles, shipped on board the schooner Maria, Captain Elberty, bound to Pensacola, on account and at the risk of, and to be delivered to, Don Benigno Garcia Calderon:

C.—No. 1.

One sack, containing twenty-eight pairs of shoes,	
at six rials	\$21 00

C.—No. 2.

One sack, containing fifty-four shirts, at	
four rials	27 00
One coat	1 50
Sacks, sewing, and transportation	1 00
	<hr/> 50 50
Commission, at five per cent.	2 50
	<hr/>
Amount to the debit of Don. B. G. Calderon	\$53 00

P. DALHASTE Y CLAVERIA.

To Don B. G. CALDERON, Pensacola.

Account of cost and charges of ten sacks, containing one hundred and thirty-one coats, shipped on board the schooner Maria, Captain Gran-

*Defeat of the Seminole Indians, &c.*

pré, on account and at the risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz:

C.—No. 3 to 12.

Ten sacks, containing one hundred and thirty-one coats, at ten rials	\$163 75
Sacks, sewing, and transportation	4 00
	<hr/> 167 75
Commission, at five per cent.	8 38
	<hr/>
Amount to the debit of Don B. G. Calderon	\$176 13

P. DALHASTE Y CLAVERIA.

NEW ORLEANS, May 29, 1817.

NEW ORLEANS, July 29, 1817.

On the receipt of yours, the caps were already agreed for with some other articles of clothing, amounting, as per invoice annexed, to \$317 16½, and which is charged to you in account. I have suspended the purchase of the hats, which ran at from eight to ten dollars, until further orders. Account of cost and charges of the following articles, shipped in two hogsheds, three barrels, two cases, and one sack, on board the schooner Jalouse, Jose Medina, master, bound to Pensacola, on account and at the risk of Don Benigno Garcia Calderon, and to be delivered to him on his order, viz:

Twenty-five pairs of cotton pantaloons, at fifty rials	\$12 50
Two hundred and thirty-six flannel waistcoats, at three hundred and seventy-two rials	88 50
Two hundred and fifty-three caps, at 18½ rials	47 43½
A parcel of leather gaiters and coyars	15 00
Twenty Russia vests or jackets, fifty-one pairs of pantaloons, thirty-five cotton shirts—106 pieces at one dollar each	106 00
Twenty-nine cotton shirts, at seventy-five rials	21 37½
Cooperage and transportation	3 50
	<hr/> 302 06½
Commission, at five per cent.	15 10
	<hr/>
Amount to the debit of Don B. G. Calderon	\$317 16½

P. DALHASTE Y CLAVERIA.

DON B. G. CALDERON, *Pensacola*.

We, the undersigned, merchants of this place, hereby certify that the foregoing copies of paragraphs of letters of advice and of invoices are perfectly conformable to the originals exhibited to us by Captain Don Benigno Garcia Calderon, commanding the Grey and Brown companies from Havana; and that the signatures thereto subscribed are in the genuine handwriting of Don Pedro Dalhaste y Claveria, a citizen of the

United States and merchant at New Orleans. In testimony whereof we give the present certificate at the desire and request of the aforesaid Captain Calderon, at Pensacola, this 18th day of May, 1818.

HENRIQUE MICHELET,  
VINCENTE DE ORDOZGOITTI,  
VINCENTE BATLOQUE.

No. 2.

PENSACOLA, May 14, 1818.

Instructed, by your letter of yesterday, of the points treated of by Major General Jackson in his letter of the 27th ultimo, and on which he founds his positive assertions, that the Indians not only received succors at Appalachie, but that they were excited to commit their outrages against them, [the United States,] were advised of his movements, &c. I have, in answer, to express the astonishment this affair has caused me, and which has solely arisen from the imposture employed, by some malicious person, to asperse the parties criminated by the letter of the said General. His excellency states, that, from the papers and other proofs taken at St. John's, the detention of American cattle found at St. Mark's, and purchased of the commissary there, and the intercourse carried on between that place and the hostile Indians, it is evident that they were inspired and excited to this cruel war by the Spaniards. To this I have to reply, that it has never come to my knowledge that any person belonging to the fort had any intercourse, directly or indirectly, with St. John's; and although I wrote two letters to Mr. Arbuthnot, an English merchant, one of them was merely to thank him for the three copies [exemplares] he sent me from thence or Savannah, and for the information he gave me of the intention of the insurgents at Amelia Island, and of Captain Woodbine, who I informed you by express was one of the two chiefs hung on the day I left Appalachie, or on the preceding one; and the other was to request him to come or send as speedily as possible for the effects which, at the request of the Indian chiefs, and to avoid increasing their suspicions, I permitted to be deposited in the fort on the departure of O'Kelagne, who had them in charge; and although by this step I ran some risk, from the state of excitement of both parties, it was one which does not appear to me to give any just ground for suspicion. Nor does the finding of American cattle, which his excellency states he purchased at St. Mark's, afford greater cause of suspicion, as it is notorious that, from the time of its establishment, its supplies were obtained from the droves of cattle brought there for sale by the Indians; and that they had many is shown from those found in Mickasukey and its vicinity. Purchases were only occasionally made, because we considered ourselves sufficiently supplied for some months; and if the cattle were stolen from the Americans, the sellers took good care to conceal that fact, and were all of them known to have droves, and were

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in the habit of bringing them for sale; and very seldom was it that the American commandant or magistrate, within whose district these excesses were committed, was known to complain of them to the commandant at St. Mark's, and send him the marks of the cattle, that it might be seen from whence they came, and the purchase of them be avoided. Nor does the intercourse between the fort and the Indians, complained of by General Jackson, afford any better evidence of what he asserts, that from this it is inferable that they were inspirited and excited to this cruel war by the Spaniards. Such intercourse and good understanding were at all times recommended by the Government, and never more necessary than in the circumstances in which we were placed in the fort; and on this, amongst other reasons, General Jackson, in his first letter, founded his demand that it should be occupied by his troops, and added, that on this account such a course could not fail to be approved by His Catholic Majesty. In the same letter he stated to me, that he had been informed by an Indian woman, a prisoner, that the Indians and negroes had received large supplies of munitions from the fort. I thought I had convinced him of the contrary in my answer, in which I represented to him that no one could better remove from his mind any unfavorable impressions on this point, than the bearer of it, Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies; and that he could also inform him, that I uniformly counselled them to avoid the destruction which has overtaken them, and which I foresaw from the first. But as it appears he is not yet satisfied, and persists in his charge, a reference to the returns of the public storekeeper will show that, from the month of May last, and prior to the receipt of your orders, there had been issued to some chiefs and head men, and that merely from motives of policy, only three pounds of powder, three pounds of balls, and fourteen flints; and the interpreter belonging to the fort, Juan Sandoval, and his son Francisco, through whom I communicated with the Indians, can also testify to the truth of this statement, whose evidence I request of you to have taken, in refutation of General Jackson's charge against me. He cannot but know that, a short time before the Negro fort on the Appalachicola was blown up, all the chiefs of the tribes in its immediate vicinity went there and supplied themselves with powder and ball left for them by the English; and that at Mickasuky, and the houses in the neighborhood, there was a great quantity. Having thus obtained so large a supply of the kind of powder and ball they most esteemed, what value could they set on ours, which they in fact view with such indifference and contempt, that only those hunters, of whom now and then one comes to the fort to supply us with venison, geese, &c., will use it; and although, as I stated in my communication to you, some was repeatedly requested of me by the chief Kinache, for the purpose of showing, by the refusal of it, that the American

interest prevailed in the fort, he did not obtain it; in consequence of which we were considered as American partisans to the last, were reproached with it, and had even to put up with some impertinences from them. I shall, however, in strict adherence to truth, and because the circumstance may have given rise to these suspicions, state that the chief Petisacho, who was hung, received, among other things, at the fort, from Mr. Arbuthnot, an English merchant, when he came from Savannah to request aid against the negroes from him on account of their molestation, a small barrel of powder, which might contain from twenty to twenty-five pounds, and which was kept with the other effects brought from O'Kelagne's, and which he had in charge. What he did with it I know not, but I well know that the chief occasioned me much fear and anxiety, by being so near the fort with four or five hundred Indians of his party. I never had an idea that he employed it against the Americans, but supposed that they used it in the purchase of peltry for the said Arbuthnot, which was his avowed object, and in which he was engaged on the arrival of the Americans. The idea that the officers of St. Mark's lent themselves to aid and excite the Indians, by giving them information of the movements of the Americans, is highly ridiculous; for how, or from whence, could their movements be better known at the fort than from the Indians themselves? Thither they passed, and from thence repassed, incessantly, and their reports were so various that they deserved very little attention; as a proof of which, nothing certain was known of the operations of the Americans until the different columns of their troops appeared. At the mouth of the Pinar, although their three vessels were at anchor there for three or four days previous, they kept English colors flying until the day before the arrival of the army. My different communications to you are pledges that I took no part in the contest between the Americans and the Indians; nevertheless, my mistrust of the latter evinced to which I gave a preference. How, then, is it possible to believe that I gave them the aid of which General Jackson complains, or how can such aid be reconciled with the tenor of my letters and the steps I took to liberate Messrs. Edmund Doyle and William Hambly, by which I exposed myself and my garrison to the vengeance of the Indians? Or, lastly, with the fact of my having ransomed, at a most critical moment, an American soldier, whom they declared to me they would otherwise put to death? I leave it to the most impartial to decide, if these be not proofs of the existence, at St. Mark's, of a bias in favor of the American interest; and of this, I am persuaded, General Jackson will be convinced on deliberately reflecting on the subject. I shall not deny that I have observed towards those barbarians a policy which had the appearance of a warm friendship, and by which I have incurred considerable expenses. If, however, all the circumstances attendant on my situation be duly weighed, it will be seen that all this was neces-

*Defeat of the Seminole Indians, &c.*

sary to restrain them from doing what they had at one time premeditated, on the pretext I have just alluded to, and on others suggested to them by some persons who had gone hence to those parts of the country. Although I have, as I conceive, given satisfaction on all the points embraced by Major General Jackson in his letter, I beg leave to request that, for fuller evidence of what I allege, you will be pleased to give orders for having the testimony taken of the interpreter and his son, of the subaltern Don Miguel Ordóñez, of Don Anastasio Montes de Oca, the military storekeeper, and of surgeon Don Diego de Barrias, as these persons have some knowledge of the subject in question. God preserve. &c.

FR. CASO Y LUENGO.

Don JOSE MAZOT.

PENSACOLA, *May 23, 1818.*

It having come to my knowledge that you have passed the frontiers with the troops under your command, and that you are within the territory of this province of West Florida, which is subject to my government, I solemnly protest against this procedure as an offence against my Sovereign, exhorting you, and requiring of you, in his name, to retire from it; as, if you do not, and continue your aggressions, I shall repel force by force.

The consequence in this case will, doubtless, be the effusion of blood, and also an interruption of the harmony which has hitherto reigned between our respective nations; but, as the repeller of an insult has never been deemed the aggressor, you will be responsible, both to God and man, for all the fatal consequences which may result. God preserve you many years.

JOSE MAZOT.

*The COMMANDER of the U. S. troops.*

A copy of this protest was addressed to General Andrew Jackson, and sent by a Spanish officer, meeting the American army, shortly after it had passed the Escambia river.

J. GADSDEN, *Aid-de-camp.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Pensacola, May 24, 1818.*

SIR: The enclosed communication was forwarded to you by my aid-de-camp, Captain Gadsden, last evening; not finding you, however, in Pensacola, its delivery was delayed.

I have entered Pensacola to provision my troops. I have only to add, that an immediate compliance with my demand is expected. Resistance on your part would be a needless sacrifice of men.

ANDREW JACKSON,  
*Major General commanding.*

Don JOSE MAZOT,  
*Fort St. Charles, Barancas.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*On the line of march, May 23, 1818.*

SIR: The Southern frontier of the United States has, for more than twelve months, been

exposed to all the horrors of a cruel and savage war. A party of outlaws and refugees from the Creek nation, negroes who have fled from their masters, citizens of the United States, and sought an asylum in Florida, and the Seminole Indians, inhabiting the territory of Spain, all uniting, have raised the tomahawk, and, in the character of savage warfare, have neither regarded sex nor age; helpless women have been massacred, and the cradle crimsoned with the blood of innocence. The United States, true to their own engagements, and confiding in the faith of Spain to enforce existing treaties, never entertained a doubt but that these atrocities would early attract the attention of the Spanish Government, and that speedy and effectual measures would have been adopted for their suppression. Under this persuasion, a cordon of military posts was established to give immediate protection to such of our frontier settlers as were peculiarly exposed, and strict injunctions issued to the American officers to respect the territory of Spain, and not to attempt operations within its limits. These instructions were most scrupulously observed; and, notwithstanding the inactivity of the American troops had encouraged the Indians to the most daring and outrageous acts of violence against our citizens, the Government of the United States was still disposed to respect the territory of Spain, and confide in the ability of the Spanish Government to execute existing treaties, until advised through you that, with every disposition, the Spanish authorities had not the power of controlling the Indians in Florida; that their acts of late were viewed as equally hostile to the interests of Spain as those of the United States; that Spanish subjects were not exempted from the evils of which we complained, and that the negro establishment on the Appalachicola, and St. Juan rivers, were founded by British agents, contrary to the will of Spain. Those representations determined the President of the United States to adopt effectual measures to restore tranquillity to the Southern frontier of the American Republic; and, pursuant to his orders, justifiable by the immutable laws of self-defence, I have penetrated into Florida, reduced to ashes the Seminole villages, destroyed their magazines of provisions, beaten their warriors whenever they hazarded a contest, dispersed some, and expelled others across the river.

In the course of my operations, it became necessary to visit the Spanish fortress of St. Mark's. Entering the territory of Spain to fight her battles, to relieve from bondage her subjects, and to chastise an Indian tribe whom she acknowledged, under existing treaties, she was bound to preserve at peace with the United States, I had every reason to expect that the American army would have been received as friends, and every facility afforded to insure success to operations so interesting to both Governments.

My expectations have not been realized. It had been reported to me, direct from you, that Fort St. Mark's had been threatened by the Indians and negroes, and you expressed serious ap-

*Defeat of the Seminole Indians, &c.*

prehensions, from the weakness of the garrison, and defenceless state of the works, for its safety. From other sources, to be relied on, the same information had been furnished me. It became necessary, therefore, to anticipate the movements of the enemy, and amicably to get possession of a work, the dislodging the enemy from which might cost me much precious blood.

On entering St. Mark's, evidence of the duplicity and unfriendly feelings of the commandant evinced itself. I found that the gates of his fort had been thrown open to the avowed savage enemies of the United States. That councils of war had been permitted to be held within his own quarters by the chiefs and warriors. That the Spanish store-houses had been appropriated to the use, and were then filled with goods belonging to the hostile party. That cattle, knowingly plundered from the citizens of the United States, had been contracted for and purchased by the officers of the garrison, from the Spanish thieves. That foreign agents had free access within the walls of St. Mark's, and a Mr. Arbuthnot, condemned and executed as the instigator of this war, an inmate in the commandant's family.

From this fort was information afforded the enemy of the strength and movements of my army by the said Arbuthnot, the date of departure of express noted by the Spanish commissary, and ammunition, munitions of war, and all necessary supplies furnished.

On my return from my operations east, your letter was received, positively refusing to permit (unless exorbitant duties were paid) any provisions passing up to the American fort on the Escambia. Connected with this strong indication of an unfriendly disposition on your part, I have learnt, from the most unquestionable authority, that the city of Pensacola has, for some months past, been entirely under the control of the Indians; that free ingress and egress is permitted to the avowed savage enemy of the United States; the supplies of ammunition, munitions of war, and provisions, have been received by them from thence; that on the 15th of April last there were no less than five hundred Indians in Pensacola, many of them known to be hostile to the United States, and who had but lately escaped my pursuit. The late massacre of eighteen individuals on the Federal road was committed by Indians, direct from their return to Pensacola, who were received by you and transported across the bay, to elude the pursuit of the American troops. The Americans returning, the savages were permitted to return. An Indian, wounded in pursuit by a party, for having killed a citizen of the United States, was openly, in the sight of many Americans, received by you, and every comfort administered. Such practices, if authorized by the King, would justify me in open hostilities. Disposed, however, to believe that it was one of the unauthorized acts of agents, I deem it politic and necessary to occupy Pensacola and the Barancas with an American garrison, until the Spanish Government can be advised of the circumstance, and have force sufficient to main-

tain, and agents disposed to enforce, existing treaties.

This is the third time that the American troops have been compelled to visit Pensacola from the same causes. Twice had the enemy been expelled, and the place left in quiet possession of those who had permitted the irregular occupancy. This time it must be held until Spain has the power or will to maintain her neutrality.

This is justifiable on the immutable principles of self-defence. The Government of the United States is bound to protect her citizens; but weak would be all its efforts, and ineffectual the best advised measures, if the Floridas are to be free to every enemy, and on the pretext of policy or necessity, Spanish fortresses are to be opened to their use, and every aid and comfort afforded. I have been explicit, to preclude the necessity of a tedious negotiation. My resolution is fixed, and I have strength enough to enforce it. My army now occupies the old fort St. Michael, commanding Pensacola. If the town and the Barancas are peaceably surrendered, an inventory of all the property, ammunition, arms, &c. shall be taken by officers appointed by both parties, and the amount received for by me, to be accounted for by the American Government. The property of Spanish subjects shall be respected; their religion and laws guaranteed to them; the civil Government permitted to remain as now established, subject to the control of the military authority of the United States; the ingress and egress open to all individuals; commerce free to the subjects of Spain as usual; and the military furnished with transportation to Cuba.

If the peaceable surrender be refused, I shall enter Pensacola by violence, and assume the government until the transaction can be amicably adjusted by the two Governments. The military in this case must be treated as prisoners of war.

The proof supporting the accusation against your official station will justify this procedure.

In reply to your communication of the 22d instant, I have only to observe that the clothing detained will be a subject of future friendly settlement.

How far the Indians, permitted to remain in the neighborhood of Pensacola, were friendly disposed to the citizens of the United States, is tested by the late massacre committed by them on the Alabama.

The Red Ground chiefs, Muldecoxy and Holmes, avowedly hostile to the United States, were but lately seen in Pensacola, and a body of Indians desecrated a few days since in the vicinity of Barancas, in presence of several Spanish officers.

By a reference to my communications of the 25th of March, you will see how far I have been the aggressor in the measure protested against. You are there distinctly advised of the objects of my operations, and that every attempt on your part to succor the Indians, or prevent the passage of my provisions in the Escambia, would be viewed in no other light than as hostile acts on your part.

You have done both, and exposed my troops to

*Defeat of the Seminole Indians, &c.*

the severest privations, by the detention occasioned by the exaction of duties on my provisions and vessels in Pensacola. You have, therefore, been the aggressor, and the blood which may be shed by a useless resistance on your part to my demand will rest on your head. Before God and man you will be responsible.

This will be handed to you by my aid-de-camp, Captain Gadsden, by whom an answer is expected.

ANDREW JACKSON,  
*Major General commanding.*

Don JOSE MAZOT,  
*Governor of Pensacola.*

FORTRESS OF ST. CHARLES, OF BARANCAS,  
*May 24, 1818.*

MOST EXCELLENT SIR: I received, at 10 o'clock this morning, the two communications of your excellency of the 23d and of this day. As I have, in mine of the 18th instant, satisfactorily answered all the charges your excellency alleges in the former, I shall only add, with respect to the Indians, that I notice your excellency is greatly misinformed, as the circumstances to which you refer are, for the most part, unfounded; in proof of which I will state, that the only two Indians I have found since the peace negotiated by me, and the delivery of the eighty-seven to Major Young, are two who are in the prison, with three women and children. I ought to inform you that, long before the movements of your excellency, I had given orders at Appalachee that the Seminole Indians should not be succored, and even had placards posted up in Pensacola for the same purpose; passing over without notice only some unfortunate beings who, from time immemorial, had furnished the people with wood, as I have stated.

Your excellency lays to my charge the blood which may be shed by my refusal to deliver up the province, as your excellency requests; which I shall never do, nor can I, without covering myself with dishonor at the close of my life and of my long military career. I am firmly persuaded your excellency would, in my case, do the same, as you would not venture to stain the honorable laurels with which you are adorned. No nation, whatever may be its motives, can violate the territory of another, especially when no demands have previously been made of its Government. Your excellency has violated the Spanish territory in Appalachee, by taking possession of that fort, and pulling down its flag, when you could have adopted more conciliatory measures, which would more and more have cemented and strengthened the good understanding existing between our respective Governments.

On the 21st of the present month, by your excellency's order, Don Pedro Philibert, and other inhabitants, remained prisoners in their houses, on their parole of honor. To-day, at 11 o'clock, before Captain Gadsden arrived at Pensacola, your excellency's army entered, and made prisoners on parole Don Pedro de Alba, the interpreter, (who translated you before named communica-

tions, and who is the bearer of these,) and I believe all the military, and of course broke up the seven posts [punta] stationed with the same number of officers and two chiefs for the maintenance of the tranquillity of the place.

These facts being incontrovertible, I ask who but your excellency will be responsible for the blood that may be shed, as you declare, in your letter, that you are about to take possession of Pensacola and Barancas? I protest before God and man that my conduct is blameless, and that my ardent desires are, as they ever have been, to contribute to the peace and tranquillity of our respective nations; for, besides the sincerity of my intentions, I have in view the Message of the President to the Congress of the United States on the 25th of March last, and its tenor assured me that no aggressions were to be expected from the troops of the said States. Such, however, this province has unfortunately suffered from the operations of your excellency in Appalachee and Pensacola.

I expect from the generosity of your excellency, first, that you will set the officers and troops which garrisoned Pensacola at liberty; and that, after supplying your army with provisions, you will shortly evacuate the territory of this province, and not carry on a partial war against West Florida at a time when our nations are in profound peace.

Lieutenant Colonel Don Lui Piemas, temporary commandant of Pensacola, is duly authorized to exercise my functions, and to receive the communications of your excellency, which he will faithfully remit to me, and to which I will give the promptest answers, to be transmitted to you through the bearer of this, the interpreter, Don Pedro de Alba. Finally, if, contrary to my hopes, your excellency should persist in your intention to occupy this fortress, which I am resolved to defend to the last extremity, I shall repel force by force; and he who resists aggression can never be considered an aggressor.

God preserve your excellency many years.  
JOSE MAZOT.

His Ex'cy ANDREW JACKSON,  
*Major General com'g U. S. Army.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Pensacola, May 25, 1818.*

SIR: The accusations against you are founded on the most unquestionable evidence. I have the certificates of individuals who, on the 23d instant, at or near the little bayou, counted seventeen Indians in company of several Spanish officers.

I have only to repeat that the Barancas must be occupied by an American garrison, and again to tender you the terms offered, if amicably surrendered. Resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well advised of your strength, and cannot but remark on the inconsis-



*Defeat of the Seminole Indians, &c.*

tency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, agreeably to your own acknowledgment, to be controlled by you. If the force which you are now disposed wantonly to sacrifice had been wielded against the Seminoles, the American troops had never entered the Floridas.

I applaud your feeling as a soldier in wishing to defend your post; but when resistance is ineffectual, and the opposing force overwhelming, the sacrifice of a few brave men is an act of wantonness, for which the commanding officer must be accountable to his God.

ANDREW JACKSON,

*Major Gen. com'g Division of the South.*

*Don JOSE MAZOT, Com'g Barancas.*

PENSACOLA, May 26, 1818.

MOST EXCELLENT SIR: On the 24th of the present month, Captain Amelung, of the 1st United States regiment, put into my hands your excellency's letter, dated at Washington, Mississippi Territory, on the 23d of April last; in which, after apprizing me that your Government had given it in charge to you to inform me that the fort of the Negroes, erected during the late war with Great Britain, near the junction of the Chatahoochee and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are citizens of the United States,) and that all of them are well armed, provisioned, and disciplined, you make many wise reflections with respect to the serious injuries which may result from tolerating such an establishment, not only to those in the immediate neighborhood of it, by destroying the peace of the nation, but likewise to the good understanding which happily exists between our respective Governments. You enter into an investigation to show what the Spanish authorities ought to do to put an end to an evil of so serious a nature, in a mode prescribed by those principles of good faith, which are the foundation of friendly neighborhood among nations. You distinctly state what this Government ought immediately to do; in failure of which, your Government will be obliged to do it, to insure the safety of the inhabitants of the United States; and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish Government, and whether the negroes who composed the garrison were deemed subjects of His Catholic Majesty; and if the fort was not built by Spanish authority, to state by what authority and by whose order it was built.

In answer to your excellency I will state (with the veracity which comports with the character of an honorable officer, in which class I rank myself) that, having arrived at the place nearly at the close of the month of March preceding, and being informed of what your excellency has communicated to me, (with this difference, that the fort, instead of being where you placed it, is to be found on the eastern bank of the Apalachicola, at about

15 miles from its mouth or entrance into the sea,) I lost no time in proposing to my Captain General the measures which appeared to me proper, as well for securing the inhabitants of the country under my command from the damage, loss, and injuries which they have suffered, and still suffer, from this establishment, as to prevent the American citizens and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer, and, consequently, your excellency (who knows how limited are the powers of a subordinate officer) cannot be surprised that I should make known to you that, although my mode of thinking exactly corresponds with yours as to the dislodging of the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my Captain General, and the assistance necessary to enable me to undertake the enterprise with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed, and, should it authorize me to act, your excellency may rest assured and persuaded that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil which is felt to the full extent stated in your letter by the inhabitants of this province, who are subjects of my Sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation, your before named letter may be considered fully answered, as it gives you to understand that, thinking as your excellency thinks with respect to the necessity of destroying the negroes, the fort of Apalachicola, occupied by them, was not constructed by order of the Spanish Government; and that the negroes, although in part belonging to inhabitants of this province, and, as rational beings, may be subjects of the King, my master, are deemed by me insurgents or rebels against the authority not only of His Catholic Majesty, but also of the proprietors from whose service they have withdrawn themselves; some seduced by the English Colonel Edward Nicholls, Major Woodbine, and their agents; and others from their inclination to run off.

But as your excellency manifests a particular desire that, in case the fort was not erected by Spanish authority, I should state by whose order it was erected, I have no difficulty in satisfying your curiosity, by informing you that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahoochee and Flint rivers, (which it appears no longer exists,) were built by the orders of the before named Colonel Nicholls. I will not assure you he did it under authority from his Government; but I can say he proceeded to place artillery, munitions, and provisions in it, by the arrangement of Vice Admiral Malcolm, and that when Colonel Nicholls and the troops of his detachment, after the conclusion of the expedition

*Defeat of the Seminole Indians, &c.*

against Louisiana, withdrew from that point, he left orders with the negroes totally contrary to the incontestable right of sovereignty which the King, my master, exercises from the line of the thirty-first degree of north latitude to the south. My predecessors in the Government have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded by those on whom this duty devolves.

I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants, and that my present inaction does not proceed from a want of inclination.

I likewise flatter myself that, until my Captain General decides, no steps will be taken by the Government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the King, my master, in the district of Appalachicola, which is a dependency of this Government. And, finally, I conclude, by assuring your excellency that it will afford me particular satisfaction to have opportunities of evincing my desire not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective Governments, but also to prove to your excellency the high opinion I entertain of your virtues and military talents.

God preserve your excellency many years.

MAURICIO DE ZUNIGA.

His Ex'cy A. JACKSON.

FORT GADSDEN, May 2, 1818.

SIR: We beg leave to submit to you the following statement of facts: On the 13th December, 1817, we were violently torn from our settlements on the Appalachicola river by a number of Indians headed by Chenubby, a chief from the Fowltown tribe, carried to Mickasuky, and delivered to Kenhajah, King of the Mickasukians. Kenhajah carried us to the negro towns on Suwaney, and thence to the Spanish fort St. Marks, to the commandant of which he delivered us as prisoners captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Mark's we were treated as prisoners, and not permitted to wander beyond the walls of the garrison.

Whilst at that port the ingress and egress of the Indians, hostile to the United States, was unrestrained, and several councils were held, at one of which Kenhajah, King of the Mickasukians, Francis or Hillis Hago, Hamathlemeco, the chief of Autesses, and the chief of the Kolemies, all of the old Red Stick party; and Jack Mealy, chief of the Ochewas, were present. When it was reported that the chiefs, and that warriors were entering Fort St. Mark's for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and

enforce the treaties existing between the King of Spain and the United States; he replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request, we were confined. The council was held in the commandant's quarters, he, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison.

The Indians were in the habit of driving to Fort St. Mark's, and disposing of cattle to the commandant and other Spanish officers. While at that post three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers.

We were present at most of these contracts, and Hambly often referred to as an interpreter between the purchaser and seller.

Chenubby, a Fowltown Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in and disposed of eleven head of cattle to the Spanish commandant of Fort St. Mark's. These same cattle were those purchased by you from the commandant as his private property.

WM. HAMBLY,  
EDM'D DOYLE.

FORT GADSDEN, May 3, 1818.

SIR: In conversation with the commandant at Fort St. Mark's, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort that the hostile party of Indians had received as reported from him; that they had free access within the walls of his fort, and it was known no small supplies of ammunition had been received from that quarter.

In reply he stated that his conduct had been governed by policy, the defenceless state of his work and the weakness of his garrison compelled him to conciliate the friendship of the Indians, to supply their wants, to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence.

That he had been repeatedly threatened by Indians and negroes, and that his security depended upon exhibiting an external friendship. After Fort St. Mark's was occupied by the American troops a black man and Spanish soldier was reported to me as having been arrested clad in the American uniform, recognised as part of the clothing of the fourth and seventh regiments, captured in the boat commanded by Lieutenant Scott, in ascending the Appalachicola river.

In explanation, the Spanish commandant observed, that his soldiers and the Seminole Indians were in the habit of trading with each other, and that this negro, with others of his gar-

*Defeat of the Seminole Indians, &c.*

rison, had received his permission to purchase some clothing reported to have been brought in by the Indians. Respectfully, &c.

**JAMES GADSDEN, *Aid-de-camp.***

**Major General A. JACKSON,**  
*Com'g Southern Division U. S. A.*

I certify that, on the 23d of May, being in the Bayou which enters Pensacola Bay, one and a half miles from the town, I saw at the ferry, on the Barancas, a number of Indians, I think about seventeen, in company with four Spanish officers. The officers were carried over, and the boat returned to ferry over the Indians. I saw one boat-load landed on the side next the Barancas. The Indians concealed themselves in the bushes on discovering us.

**RICHARD BRICKHAM.**

Witness: **T. CROSS, *Lieut. of Infantry.***

I certify that I was in the boat with Brickham at the place and time mentioned in the above certificate; that I saw several Indians in company with four Spanish officers. The officers were ferried over with one Indian. I did not see the Indians ferried over; they concealed themselves on discovering us.

**JOHN BONNER, his X mark.**

Witness: **T. CROSS, *Lieut. of Infantry.***

Witness to both certificates:

**W. S. FULTON, *Sec'y to Com. Gen.***

We certify that, being in Fort St. Charles, Barancas, on the 28th of May, 1818, in the afternoon, soon after the American troops took possession of the work, and as the Spanish troops were marching out, we saw an Indian carried out by some Spanish soldiers; he was laid on his back to put on board a boat; he was wounded in the leg or thigh, and had every appearance of having been engaged in the defence of the fort.

**WM. RUSSELL, *Captain of Spies.***

**JAMES L. BELL, *Captain, &c.***

Witness: **WM. S. FULTON,**  
*Sec'y to Commanding General.*

We, the undersigned, do hereby certify that, at the capture of Fort St. Mark's East Florida, by Major General Andrew Jackson, on the 7th April, 1818, there were some cattle purchased on account of the United States, and turned over to us, which we are of an opinion had been driven from the frontiers of Georgia, (a part of them at least) and we were strengthened in our opinion by a number of officers and men from Georgia offering to swear to a number of them as the property of their neighbors and friends.

Given under our hands, at Fort Gadsden, this 3d of May, 1818.

**JACOB R. BROOKS.**

*Act. Cont. Agent. U. S. Army.*

**PETER CONE,**

*Assistant Commissary.*

We, the undersigned officers and men of the Georgia militia, in the service of the United

States, do hereby certify that we were at Fort St. Mark's, East Florida, at the time of its capture by Major General A. Jackson, on the 7th April, 1818, and saw some cattle that were purchased on account of the United States, from the Spanish authorities, which we were ready to swear to as the property of our friends and neighbors in Georgia.

**ANDREW FRAZIER, *Captain.***  
**DANIEL F. SULLIVAN, *G. M. S.***

**FORT GADSDEN, May 3, 1818.**

SIR: After the occupancy of Fort St. Mark's with the American troops, on the 7th of April last, it became my duty to take charge of some goods found in one of the public stores.

These goods were pointed out by the Spanish commandant, who, through Mr. Hambly as interpreter, separated several of the articles claimed as his own private property, and designated others as the property of Francis or Hillis Hajo, and Arbuthnot, a British agent or trader: an inventory of these were taken, and deposited with the American officer left in command at Fort St. Mark's. With respect, &c.,

**D. E. TWIGGS,**  
*Brevet Major 7th Infantry.*

I certify that I acted as interpreter in the transaction above alluded to, and two separate parcels of goods were designated by the Spanish commandant of St. Mark's as belonging to Hillis Hajo and Arbuthnot.

**WM. HAMBLY.**

**FORT MONTGOMERY, June 2, 1818.**

I certify that between the 5th and 17th of May, 1818, whilst at Fort Gadsden on the Appalachicola river, I was informed by a Mr. Larua and Benneto Gassea, both citizens of, and at that time direct from, Pensacola, that, at the time of their departure thence, there were five hundred Indians in and about Pensacola; and I further certify that, on my arrival at Pensacola on the 23d of May, I was informed by Mr. Skeets, and other citizens of that place, that, on the 22d, which was the day before my arrival, Holmes, a noted Red Stick, with his party, had left Pensacola to proceed to the Choctawhatchy for safety, having been for several days previous in town.

All which I certify on honor.

**WM. HAMBLY.**

Witness—**WM. S. FULTON,**  
*Private Secretary of the Com'g General.*

I do hereby certify that, during my long residence on the river Appalachicola, my knowledge of the Indian language, and my intimate acquaintance with the different chiefs, gave me many opportunities of knowing, through them, the advices given them from time to time by the Governors of West Florida, hostile to the United States. In the year 1812 or 1813, I saw a letter from the Governor of Pensacola to the late chief of the Seminoles, T. Perryman, advising him to collect his forces and join his upper town brethren, whom he said had come to a determination to rise in arms and shake off the American yoke; he would supply

*Defeat of the Seminole Indians, &c.*

them in arms and ammunition, and he said he was sure that in less than a month their fathers and protectors, the Spaniards, would have a sufficient army in the field to aid and protect them. Not long after I saw this letter, a large party of Indians went down to Pensacola, where they received a large supply of ammunition and some arms; it was but shortly after this, when they attacked and destroyed the garrison of Fort Mims; this was the commencement of the first Indian war; on the 13th of December last, when on my plantation on the Appalachicola, I was made a prisoner of by a party of Seminole Indians, and was taken up to the Ocheese Bluff in company with Mr. Doyle, who was made a prisoner of with me. They kept us there three days, during which time they were busily engaged with some transports, which were then ascending the river to Fort Scott; from thence they took us to the Mickasukey, where the Indians informed me that they had been told by the commandant of St. Mark's that war was declared between Spain and the United States. From this place we were carried to the Suwanee, when Kenhagee, principal chief of the Seminoles, told me that we had been taken and robbed by order of Arbuthnot, and brought there to be tried by him. Shortly after we reached this, Arbuthnot arrived from Providence, when we were tried and sentenced by said Arbuthnot to be tortured. This sentence was not put in execution by the friendly interference of Mr. Cook, clerk to Arbuthnot, and the negro chief Nero. We were then conducted back to the Mickasukey, then Kenhagee went down to the fort of St. Mark's to consult the commandant if he would take us as prisoners, to keep at his order. They held a council among the neighboring chiefs, and on the fifth day he returned and ordered us to be conducted down next morning. We arrived at St. Mark's on the 12th of February at night. The Spanish officers received us kindly, but the commandant did not forget to remind us that we were still prisoners, and marked out that night the limits of our prison they rigidly kept during the time of our stay. Next morning the first thing that presented itself to my view, was my saddle horse, which had been taken from me by the Indians; he was in the possession of the commissary. I mentioned it to the commandant, but he said he bought him of an Indian, and he could do nothing in it. A few days after, in the course of a conversation, I mentioned it to the Spanish Doctor; he assured me that two-thirds of the property taken from us by the Indians had been bought by the commissary and others in the fort; the plundered property taken from Georgia, was every day luckily bought by the commandant and others; I knew one instance of an Indian making an engagement with the commandant for cattle, that he was then going to plunder, and in fourteen or fifteen days brought them in and sold them. On our first arrival at St. Mark's we had, by help of a friendly Indian, conveyed intelligence to our friends in Pensacola of our situation, and they sent us on a small vessel to effect our escape. At

her arrival, the commandant said to us that he had no objection to our getting out of the power of the Indians, but that he should first demand a written obligation that we should never return to that country, nor hold communication directly or indirectly with the United States Government, or any of her officers; this being settled, we left St. Mark's in the night of the 28th March, and joined Capain McKeever in his gunboats in the Bay of Appalachicola; on the 30th returned with him to St. Mark's, where we joined General Jackson on the 6th of April.

Given under my hand this 24th of July.

WM. HAMBLY.

PROVINCE OF WEST FLORIDA,  
*Town of Pensacola, Sept. 18, 1818.*

In pursuance with an order to me directed by Colonel William King, civil and military Governor of said province, (a copy whereof is hereto annexed,) I caused to appear before me, at the quarters of Captain Hugh Young, of the army of the United States, in this town, the following persons, viz: Manuel Gonzales, Dr. Brosnaham, William Cooper, J. Dauphin, — Skeate, Felipa Prieto, Joachim Barreлас, P. Alba, Jun., Jose Boneti, (Marian) and Charles Leseau, to answer, on oath, such interrogatories, not tending to criminate themselves, as might be propounded to them by Captain Young, relating to the intercourse which took place between the late Spanish authorities of this province, and the hostile Indians, during the recent war with the United States.

Joachim Barreлас, being duly sworn, declares, that he has frequently seen parties of Indians in the town of Pensacola since the month of November, 1817; says that parties of Indians have been provisioned by the late authorities at this place, on several occasions; has frequently heard, and believed, that the Indians were in the habit of bringing into this place, horses, cattle, &c., for the purpose of selling them and other plunder; says he was at Barancas at the time that General Jackson came to Pensacola, in May last; deponent acted there as commissary, and knows that several Indians went from town down to Barancas, with the Spanish forces, and took refuge in the fort; that at the same time several small parties were encamped about the Barancas; that, upon the arrival of General Jackson before the Barancas, Tapaulca and family were also in the fort; deponent has seen said chief several times in Pensacola, and believes him to be either a Creek or Seminole Indian; that while deponent was at Barancas, and subsequently to the said month of November, 1817, he saw an Indian named Lunæ, an express from St. Marks, cross over from Santa Rosa island, to Barancas, with despatches for the Governor here; says that since the said month of November, 1817, Governor Mazot, being himself at Barancas, did order this deponent to give rations to several parties of Indians then there, of at least from thirty to forty strong, men, women, and children.

JOACHIM BARRELAS.

*Defeat of the Seminole Indians, &c.*

George Skeate, being duly sworn, declares, that he has constantly resided in the town of Pensacola since November, 1817, since which, he has repeatedly seen at different times in said town, from thirty to forty Indians; has not seen any ammunition given to the Indians within the period above alluded to; has heard, and believes, that horses, cattle, &c., were brought into this place by the Indians and sold, which deponent, however, did not see. Deponent believes that the late Governor Mazot was well acquainted with the several murders that were committed on the neighboring American frontier; knows of no supplies furnished by order of the Spanish Government, since about the month of March, 1817, when a supply of knives, a few blankets, and some copper kettles, were furnished and delivered to a party of Indians, for the purpose, as was then said, of acting against the insurgents who were expected; that the said party of Indians shortly after disappeared, and nothing more was heard of them. Deponent saw, on the day that Major Young attacked a party of Indians in the neighborhood of this town, a number of Indians whom he believes weresent (or went themselves) across the bay in a boat belonging to Don Antonio Modina, Captain of the port.

**GEORGE SKEATE.**

Mr. Charles Le Jeune, being duly sworn, declares, that he has resided in Pensacola since November, 1817, since which he has frequently seen in this town, or its vicinity, parties of upwards of a hundred Indians encamped; that these parties were armed with rifles, or with the arms that were furnished them by the English; that although he cannot state that those parties had received ammunition from the Spanish Government here, he nevertheless can, and does state, that the said parties were provisioned from the King's stores, by Prieto, King's storekeeper; that previous to November, 1817, the Government was regularly in the habit of giving out ammunition to the Indians, from a store which was expressly for that purpose here; that on the day that Major Young attacked the Indians near this town, there was a considerable number encamped near the water side in town, who, upon hearing the report of the fire-arms, crossed the bay in their own boats, and in other larger boats belonging to others.

**CHARLES LE JEUNE.**

William Cooper, being duly sworn, declares, that he has resided in Pensacola since November, 1817, during which period he has frequently seen in town and its vicinity, several parties of Indians—saw one in particular with some sheet lead, and has heard that the Indians had introduced some clothes into town that looked like American manufacture; states, also, that Tapaulca was Red Stick chief, and had been frequently about Pensacola, for several years past.

**WILLIAM COOPER.**

JOHN DUFFY, being duly sworn, declares as follows:

Question. Have you resided in and about Pensacola since November, 1817?—Answer. I have.

Question. Have you seen in said town, or its vicinity, within or since that period, any Indians? Answer. I have.

Question. How many did you see at any particular time?

Answer. About the latter end of last Spring I saw in town from fifty to sixty Indians, but few of them were armed, because they were prohibited from coming into town armed. I suppose their arms were left in their camps in the neighborhood.

Question. How did these Indians subsist themselves, and how did they procure ammunition?

Answer. Probably from Government here; of this, however, I am not certain.

Question. Did you see any horses, cattle, or other plunder, brought into this place by the Indians?—Answer. No.

Question. How many Indians were in Pensacola, and its neighborhood, at the time that Major Young attacked a party near this town?

Answer. Of all descriptions, viz: men, women, and children, there must have been a considerable number; not less probably than one hundred and fifty or sixty.

Question. When Major Young attacked the party near town, how did those in town find means to escape across the bay?

Answer. I have understood, and believe, that they were set across by order of the Governor.

**SANTIAGO PAUPHIN.**

A true copy: R. K. CALL, A. L. C.

JOSEPH BONEFI, being duly sworn, declares as follows, viz:

Question. Have you lived in Pensacola since November, 1817?—Answer. I have.

Question. Have you not between that period and the approach of the American forces, under Major General Jackson, repeatedly seen divers parties of hostile Indians in this town or its neighborhood?

Answer. I have. Indeed, between the said month of November and the time that the hostile party surrendered to Major Young, there were more or less in town; sometimes in numbers considerable, sometimes fewer.

Question. How, or by whom, were those Indians subsisted, and from whom, or by what means, did they procure ammunition and other warlike stores or weapons?

Answer. I have understood, and do believe, that they were fed by the Government here; as to ammunition, &c., I cannot state how they procured supplies, except it might have been from the stores about town.

Question. Have you seen or been informed of any horses, cattle, or other plunder, having been brought in here by the Indians within the time above alluded to?—Answer. No.

**JOSEPH BONEFI.**

PENSACOLA, Sept. 19, 1818.

I certify that the foregoing depositions were sworn to and subscribed before me on this day.

M. MCKENSEY, SEN., J. P.

A true copy: R. K. CALL, A. L. C.

## Defeat of the Seminole Indians, &amp;c.

Field Report of the operating Army under the immediate command of Major General Andrew Jackson, at Pensacola, May 24, 1818.

## PRESENT, FIT FOR DUTY.

STAFF, CORPS, AND REGIMENTS.	PRESENT, FIT FOR DUTY.																							Total.	Aggregate.			
	Adjutant General.	Quartermaster General.	Aids-de-Camp.	Assistant Adjutant Generals.	Assistant Deputy Quartermaster General.	Assistant Topographical Engineer.	Hospital Surgeon.	Secretary to Major General.	Colonels.	Lieutenant Colonels.	Majors.	Adjutants.	Quartermasters.	Judge Advocates.	Surgeons.	Surgeon's Mates.	Forage Masters.	Assistant Forage Masters.	Captains.	Subalterns.	Sergeant Majors.	Quartermaster's Sergeants.	Sergeants.			Corporals.	Musicians.	Privates.
4th battalion artillery	1	1	2	2	2	1	1	1	-	-	-	-	-	-	-	-	-	-	-	1	3	-	1	3	5	3	35	52
4th regiment infantry	-	-	-	-	-	-	-	-	1	1	1	1	-	-	1	-	-	-	-	2	4	1	1	12	13	7	93	137
1st and 2d regiment Tennessee volunteers	-	-	-	-	-	-	-	-	2	4	4	3	2	1	2	4	-	1	17	54	4	2	59	57	11	610	837	
Kentucky and Tennessee volunteer Life Guards	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2	-	-	4	3	-	44	55	
	1	1	2	2	2	1	1	1	3	4	5	5	2	1	3	4	-	1	22	63	5	4	78	78	21	782	1,092	

Lieutenants Ripley and Cross, of the 8th department, joined at Pensacola, and marched with the army, not included in the above report. The companies of Life Guards, with a detachment of Tennessee volunteers, in all one hundred men, formed a guard for the protection of Pensacola. The sick of the different corps, amounting to thirty-six men, were detached, leaving an aggregate of nine hundred and fifty-six to operate against the fortress of Barancas.

ROBERT BUTLER, Adjutant General.

*Defeat of the Seminole Indians, &c.*

*Proposals which the Civil and Military Commandant of the Province of West Florida makes to His Excellency Andrew Jackson, General-in-Chief of the American Army, before the Fort San Carlos de Barancas.*

1st. The fort of Barancas will be delivered to the troops of the United States, under the following conditions:

[Approved, with the exceptions made following each article, and possession given at one o'clock past morning this day.]

2d. The garrison of the fort of Barancas will march out, to be transported to the Havana, on the day and hour which shall be agreed upon, with all the honors of war; drums beating; with arms and baggage. Those employed in the Royal Finance, and others attached to this department, shall also be transported to the same port.

[A roster to be furnished of all the military and civil officers of the garrisons of Fort Barancas; the troops to march out as expressed in this article; their arms to be stacked at the foot of the glacis, and left in possession of the American army until the day of embarkation, when they will be restored.]

3d. The commandant of the province, the officers of his staff of the artillery and engineers, the officers and troops, shall carry with them their arms and personal effects, and shall also have the liberty of disposing of their property of every kind, with perfect security to the purchasers.

[All titles for property legally derived from the Crown of Spain will be respected.]

4th. The garrison shall be embarked on account of the United States; every person of the military class, or of the Royal Finance, shall receive, during the passage, such rations as are allowed to every grade by the regulations of Spain.

[Approved, as far as relates to the transportation of the garrison, and the Spanish rations allowed, provided they do not exceed the American ration, in which case the American ration only will be allowed.]

5th. A competent number of vessels shall be furnished for embarking: the personal effects, papers, and other property belonging to the commandant, officers, and others in the Royal employ, and particularly the papers of the Secretary's office of the Government, which are in Pensacola; those of the Department of the Royal Finance, and of the civil and military employ. These papers shall not be subjected to any inspection or recognisance, under the pledge of their containing nothing foreign to the functions of the said persons.

[Approved. An estimate of the necessary transportation to be furnished, agreeably to established usage.]

6th. The sick, wounded, and all those who are now, or may fall sick previous to the embarkation of the troops for the Havana, shall be maintained by the Government of the United States until cured, and shall have the same privileges as the rest of the garrison; those who are in a situation shall be embarked at the same time with it, and

all shall be under the care of, and attended by, the surgeon and other individuals of the Spanish military hospital.

[Approved.]

7th. The garrison of Pensacola, and the prisoners, as also those in the employ of the Royal Finance, shall enjoy the same privileges as the garrison of Barancas, and shall likewise be transported to the Havana, uniting the former to the latter, and all shall remain in the quarters they occupied in Pensacola until the moment of embarkation for the port of Havana.

[Approved. An estimate of the necessary transportation to be furnished, and included in estimate, for the garrison of Fort Barancas.]

8th. During their stay the United States will furnish to the King's storekeeper, under documents from the Royal officers, such articles of provisions as may be deficient or not in the King's stores, to complete the rations of the troops dependants; those in the King's employ, and their respective families, according to the allowance made by the regulations of Spain; the reimbursement thereof remaining subject to the decision of the Governments of Spain and the United States.

[An inventory of the provisions in possession of the Spanish commissary to be forthwith furnished. The rations allowed subject to the limitation in the fourth article.]

9th. The provisions actually existing in the King's stores of Pensacola and Barancas shall be transported to the former, in order that they may serve for the said supply of rations.

[Approved.]

10th. An inventory, and a duplicate thereof, shall be made by the military storekeeper, and such officer of artillery as the commandant of this corps may name, and such other as may be appointed by the General of the troops of the United States, of the artillery, powder, military stores, and other effects belonging to this department, in Pensacola, and Barancas.

[Approved. Major Peters, of the artillery, appointed on the part of the American Government.]

11th. Persons and property shall be respected; concessions and sales of land made by the competent authorities shall be valid and guaranteed by the American Government at whatever time they may have been made, and until the date hereof.

[All titles legally derived from the Crown of Spain, prior to this date, guaranteed and respected.]

12th. The commandant of engineers shall name an officer, who, with another whom the General of the American army may appoint, shall make an inventory, and a duplicate thereof, of the number and state of the royal edifices, in the same manner as is stated for the department of artillery.

[Approved, and Lieutenant Sands of the artillery appointed on the part of the American Government.]

13th. The military officers, and those in the service of all and the several departments, may embark with them their wives, children, and

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servants; in which number are to be included the families of those of the said classes who may be absent. Those who have property to dispose of, or affairs to settle, may remain the time necessary for these purposes. American authority shall afford them every protection during their stay, and they shall enjoy the same privileges as the rest of the garrison, and be transported to the Havana on account of the United States.

[Inadmissible, so far as it regards transportation being allowed to the families of those officers not present, and servants not attending upon the persons of the officers and their families. Those individuals disposed to remain in Florida will be respected, and protected in all civil and personal rights; and, if not embracing the transportation allowed at the present period, they must furnish their own at a future period.]

14th. The storekeeper general shall form an inventory of the small vessels and craft, and of the other effects under his charge, in the same way as stated for the department of artillery.

[Approved, and Lieutenant Parkhurst, quartermaster of artillery, appointed on behalf of the American Government.]

15th. The officers and troops of this garrison, with their equipage, shall be transported to Pensacola, where they shall remain, as already stated, until embarked for the Havana.

[Approved.]

17th. The Alabama chief, with his family, now in this fort, and who has been reported to Major Young, shall be included in this capitulation, and transported to the Havana.

[Approved. His name to be entered in an article, and the Spanish Government guarantying that he never returns to the Floridas.]

18th. The Catholic religion shall be maintained, with its ministers, and free exercise.

[A free toleration to all religions guarantied.]

19th. This capitulation is made under the confidence that the General of the American troops will comply with his offer of returning integral this province, in the state of which he receives it, as explained in his official letters.

[Approved, and the restoration made under the conditions expressed in General Jackson's communication to the Governor of Pensacola, the 23d of May.]

20th. If any doubt should arise as to the meaning of the articles of this capitulation, they shall be construed in the manner most favorable to the Spanish garrison.

[The above articles to be interpreted agreeably to their literal and expressed meaning.]

21st. The present capitulation shall be signed and exchanged by the General of the American army and the commandant of this province, as soon as possible, and, at latest, by five o'clock in the afternoon; each party respectively being in possession of an original.—[Approved.]

FORT OF SAN CARLOS DE BARANCAS,

May 28, 1818.—7 o'clock in the morning.

JOSE MAZOT.

CAMP NEAR FORT BARANCAS, May 28, 1818.

A. JACKSON, *Maj. Gen. cmd'g.*

*Additional articles, which are to have the same force as the primary, and which extend to the fulfilment of what has been agreed upon.*

1st. The name required of the Alabama chief is Opayhola. The commandant of this province engages, in the name of his Government, that the said chief shall never return to the Floridas.

[Approved.]

2d. If any vessels of war of His Catholic Majesty, destined for this port, should arrive with a supply of provisions or money, they shall be freely admitted, as well as Spanish merchant vessels.

SAN CARLOS DE BARANCAS,

May 28, 1818.—5 o'clock in the afternoon.

JOSE MAZOT.

CAMP, NEAR FORT BARANCAS, May 28, 1818.

ANDREW JACKSON,

*Major General commanding.*

HEADQ'RS, DIVISION OF THE SOUTH,

*Adjutant General's Office, Barancas,*

May 29, 1818.

FELLOW SOLDIERS: You were called into the field to punish savages and negroes, who had, in a sanguinary manner, used the tomahawk and scalping-knife upon our helpless citizens upon the frontier. You have pursued them to Mick-asukey, St. Mark's, Suwaney, and lastly to this place, through an unexplored wilderness, encountering immense difficulties and privations, which you met with the spirit of American soldiers, without a murmur.

Your General anticipated a close of the campaign on his return to Fort Gadsden, and hailed the hour with feelings of gratitude to Heaven, at the prospect of relieving you from your labors, by placing you in quarters, and returning you to your homes; but how great was the disappointment, when he heard of the recent murders committed on the Alabama, by a party of the enemy from Pensacola, where they were furnished with provisions and ammunition by a friendly Power. Under this state of things, you were marched here, encountering difficulties which you alone can properly appreciate, meeting on the way the protest of the Governor of West Florida, threatening to employ force if we did not immediately evacuate the country. This new and unexpected enemy was soon taught to feel the impotence of his threats. You entered Pensacola without resistance, and the strong fortress of the Barancas could hold out but one day against your determined courage. Your General cannot help admiring the spirit and military zeal manifested, when it was signified that a resort to storming would be necessary; and would do injustice to his feelings, did he not particularly notice the judgment displayed by his aid-de-camp, Captain Gadsden of the engineers, in the selection of the positions for the batteries, and the gallantry of his second aid, Captain McCall, and Captain Young of the topographical engineers, in aiding him to erect the works, under the fire of heavy batteries within four hundred yards, as well as



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the skill and gallantry of Captain Peters, Lieutenants Minton and Spencer, in the direction and management of the nine pounder, and that of Lieutenants Sands and Scallon, charged with the management of the howitzer. Captain McKeever, of the navy, merits, as he has on several occasions, his warmest thanks for his zealous co-operation and activity in landing two of his guns, (should an additional battering train have been necessary,) and gallantly offering to lay his vessel before the water battery, in the event of storming the upper works; his officers and crew deserve his confidence.

The General assigns to Colonel King the government of Pensacola and its dependencies, and that part of the 7th department lying west of the Appalachicola and Chatahoochee rivers, until otherwise ordered by General Gaines.

The Colonel will take measures to have the volunteers now at Pensacola relieved, preparatory to their return march. The Tennessee volunteers will be rationed for five days, and will forthwith move for Fort Montgomery, where they will receive further orders.

The General, in taking leave of Colonel King and his command, tenders to the officers and soldiers an affectionate farewell.

By order: **ROBERT BUTLER.**  
*Adjutant General.*

HEADQ'RS, DIVISION OF THE SOUTH,  
May 29, 1818.

Major General Andrew Jackson has found it necessary to take possession of Pensacola; he has not been prompted to this measure from a wish to extend the territorial limits of the United States, or from any unfriendly feeling on the part of the American Republic to the Spanish Government. The Seminole Indians, inhabiting the territories of Spain, have, for more than two years past, visited our frontier settlements with all the horrors of savage massacre; helpless women have been butchered, and the cradle stained with the blood of innocence. These atrocities, it was expected, would have early attracted the attention of the Spanish Government, and, faithful to existing treaties, speedy measures adopted for their suppression. That, so far from being able to control, the Spanish authorities were often compelled, from policy or necessity, to issue munitions of war to these savages: thus enabling, if not exciting, them to raise the tomahawk against us. The immutable laws of self-defence, therefore, compelled the American Government to take possession of such parts of the Floridas in which the Spanish authority could not be maintained. Pensacola was found in that situation, and will be held until Spain can furnish military strength sufficient to enforce existing treaties. Spanish subjects will be respected; Spanish laws will govern in all cases affecting property and person; a free toleration to all religions guaranteed, and trade alike to all nations.

Colonel King will assume the command of Pensacola, as military and civil Governor. The

Spanish laws, so far as they affect personal rights and property will be enforced. Colonel King will take possession of the archives of the province, and appoint some confidential individual to preserve them. It is all important that the record of titles and property should be carefully secured. He will cause an inquiry to be made into all the landed property belonging to the King of Spain, and hold possession of it. The claims to property, within the range of gunshot of Fort St. Charles de Barancas, will be scrupulously examined into; and, should this prove valid, a rent allowed, but possession in nowise given. This property is necessary for the United States, and under its laws may be held, and an equivalent paid. The revenue laws of the United States will be established, and Captain Gadsden appointed to act as collector; with full power to nominate such sub-officers as, in his opinion, will be necessary to the faithful discharge of the trust reposed in him. He will apply to the Governor of Pensacola for military aid in all cases where it may be necessary to correct attempts at an illicit trade.

**ANDREW JACKSON,**  
*Major Gen. com. Div. of the South.*

*Minutes of the proceedings of a special court, organized agreeably to the following order, viz:*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Adjutant General's Office,*  
Fort St. Marks, April 26, 1818.

**GENERAL ORDER.**

The following detail will compose a special court, to convene at this post, at the hour of 12 o'clock M, for the purpose of investigating the charges against A. Arbutnot, Robert Christy Ambrister, and such others who are similarly situated, as may be brought before it:

The court will record all the documents and testimony in the several cases; and their opinion as to the guilt or innocence of the prisoners; and what punishment, if any, should be inflicted.

**DETAIL.**

Major General E. P. GAINES, *President.*

*Members.*

Colonel King, 4th infantry,  
Colonel Williams, Tennessee volunteers,  
Lieut. Colonel Gibson, Tennessee volunteers,  
Major Muhlenburg, 4th infantry,  
Major Montgomery, 7th infantry,  
Captain Vashon, 7th infantry,  
Colonel Dyer, Tennessee volunteers,  
Lieut. Col. Lindsay, corps of artillery,  
Lieut. Col. Elliott, Tennessee volunteers,  
Major Fanning, corps of artillery,  
Major Minton, Georgia militia,  
Captain Crittenden, Kentucky volunteers.  
Lieut. J. M. Glassell, 4th infantry, *Recorder.*

An orderly will be detailed from General Gaines's brigade; and the court will sit without regard to hours.

By order of Major General JACKSON:

**ROBERT BUTLER,** *Adj. Gen.*

*Defeat of the Seminole Indians, &c.*

FORT ST. MARK'S, April 26, 1818.

The court convened pursuant to the foregoing order; when, being duly sworn in the presence of the prisoner, and he being asked if he had any objection to any member thereof, and replying in the negative, the following charges and specifications were read, viz:

Charges *vs.* A. Arbuthnot, now in custody, who says he is a British subject.

CHARGE 1st. Exciting and stirring up the Creek Indians to war against the United States and her citizens; he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

*Specification.* That the said A. Arbuthnot, between the months of May and July, or some time in June, 1817, wrote a letter to the Little Prince, exhorting and advising him not to comply with the Treaty of Fort Jackson, stating that the citizens of the United States were infringing on the Treaty of Ghent, as he believed, without the knowledge of the Chief Magistrate of the United States; and advising the Upper and the Lower Creeks to unite and be friendly; stating that William Hamby was the cause of their disputes. Also, advising the Little Prince to write to the Governor of New Providence, who would write to His Royal Highness the Prince Regent, through whom the United States would be called to a compliance with the Treaty of Ghent; and advising not to give up their lands under the Treaty of Fort Jackson, for that the American citizens would be compelled to give up to them all their lands under the Treaty of Ghent.

CHARGE 2d. Acting as a spy, and aiding, abetting, and comforting the enemy—supplying them with the means of war.

*Specification 1st.* In writing a letter from St. Mark's fort, dated the 2d April, 1818, to his son John, at Suwany, (marked A,) detailing the advance of the army under General Jackson, stating their force, probable movements and intentions, to be communicated to Bowlegs, the chief of the Suwany towns, for his government.

*Specification 2d.* In writing the letters, marked B (without date) and C, with enclosures of January 27, 1818; and D, called "a Note of Indian Talks;" and E, without date, applying to the British Government, through Governor Cameron, for munitions of war, and assistance for our enemies, making false representations. And also applying to Mr. Bagot, British Ambassador, for his interference, with a statement on the back of one of the letters of munitions of war for the enemy.

CHARGE 3d. Exciting the Indians to murder and destroy William Hamby and Edmund Doyle, and causing their arrest, with a view to their condemnation to death; and the seizure of their property, on account of their active and zealous exertions to maintain peace between Spain and the United States and the Indians, they being citizens of the Spanish Government.

*Specification 1st.* In writing the letters marked F, dated the 26th August, 1817; G, dated the 13th May, 1817; and H, threatening them with death; alleging against them false and infamous

charges, and using every means in his power to procure their arrest; all which writings and sayings excited, and had a tendency to excite, the negroes and Indians to acts of hostility with the United States. By order of the court:

J. M. GLASSELL, Recorder.

To which charges and specifications the prisoner pleaded *not guilty*.

The prisoner having made application for counsel, it was granted him; when the court proceeded to the examination of the evidence.

JOHN WINSLETT, a witness on the part of the prosecution, being duly sworn, stated that some time before last July the Little Prince received a letter, signed by Mr. Arbuthnot, advising the upper part of the nation to unite with the lower chiefs in amity; and stating that the best mode for them to repossess themselves of their lands would be to write to him, Arbuthnot, and he would send on their complaints to the Governor of Providence, whence it would be forwarded to His Britannic Majesty, and he would have the terms of the Treaty of Ghent attended to; he, moreover, stated his belief that the encroachments on the Indian lands were unknown to the President of the United States; the witness also identified the signature of the letter of the prisoner to his son, (marked A,) referred to in the first specification to the second charge, and heretofore noted as being the same with that sent to the Little Prince.

The witness, on being further interrogated, stated the language of the letter alluded to to be, that the British Government, on application would cause to be restored to them their lands they held in 1811, agreeably to the terms of the Treaty of Ghent.

Question by the prisoner. Who is the Little Prince, or is he known by any other name?

Answer. He is known by the name of Tus-tenukke Hopin, and is the second chief of the nation.

Question by the prisoner. Where is the letter you allude to, or in whose possession?

Answer. It was left in the possession of the Little Prince when I last saw it.

Question by the prisoner. Has this Little Prince no other name than what you state?

Answer. Not that I know of.

Question by the prisoner. Do you swear that the letter alluded to was addressed to the Little Prince?

Answer. I do not. It was presented me by the Little Prince to read and interpret for him, which I did.

Question by the prisoner. Are you certain that the letter stated that the Chief Magistrate of the United States could have had no knowledge of settlements made on Indian lands, or injuries committed?

Answer. The letter stated that to be the belief of the writer.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated, with regard to the first specification of the second

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charge, that, being at Suwany, in the towns, about the 6th or 7th of April, he was awakened early in the morning by Mr. Ambrister's receiving, by the hands of a negro, who got it from an Indian, a letter from St. Mark's, at that time stated by Ambrister to be from the prisoner.

Question by the prisoner. Did you see that letter, or hear it read?

Answer. I did see the paper, but did not hear it read.

Question by the prisoner. Did you state that the letter was received by an Indian express?

Answer. So the black man that delivered it said.

A question being raised by a member of the court as to their jurisdiction on the third charge and its specifications, the doors were closed, and, after mature deliberation, they decided that this court are incompetent to take cognizance of the offences alleged in that charge and specifications.

PETER B. COOK, a former clerk to the prisoner, and a witness on the part of the prosecution, being duly sworn, stated, that, about December or January last, the prisoner had a large quantity of powder and lead brought to Suwany in his vessel, which he sold to the Indians and negroes; that, subsequent to that time, which he cannot recollect, Ambrister brought for the prisoner, in his (the prisoner's) vessel, nine kegs of powder and a large quantity of lead, which were taken possession of by the negroes; the witness also identified the following letters referred to in the foregoing charges and specifications, marked A, B, C, D, E, F, G, and H, as being the prisoner's handwriting; also the power of attorney, No. 1, granted by the Indians to A. Arbuthnot.

A.

*From A. Arbuthnot to his son, John Arbuthnot.*

FORT ST. MARK'S, APRIL 2, 1818,  
9 o'clock in the morning.

DEAR JOHN: As I am ill able to write a long letter, it is necessary to be brief. Before my arrival here, the commandant had received an express from the Governor of Pensacola, informing him of a large embarkation of troops, &c., under the immediate command of General Jackson; and the boat that brought the despatch reckoned eighteen sail of vessels off Appalachicola. By a deserter that was brought here by the Indians, the commandant was informed that three thousand men, under the orders of General Jackson; one thousand foot and one thousand six hundred horse, under General Gaines; five hundred under another General; were at Prospect Bluff, where they are rebuilding the burnt fort. That one thousand Indians of different nations were at Spanish Bluff building another fort, under the direction of American officers; that, as soon as these forts were built, they intended to march—they have commenced. Yesterday morning advice was received that they had appeared near —, and two of the sons of McQueen and an Indian. Late in the afternoon three schooners came to anchor

at the mouth of the river; and this morning the American flag is seen flying on the largest. I am blocked here; no Indians will come with me; and I am now suffering from the fatigue of coming here alone.

The main drift of the Americans is to destroy the black population of Suwany. Tell my friend Bowleck that it is throwing away his people to attempt to resist such a powerful force as will be down on Suwany; and as the troops advance by land, so will the vessels by sea. Endeavor to get all the goods over the river to a place of security, as also the skins of all sorts; the corn must be left to its fate. So soon as the Suwany is destroyed, I expect the Americans will be satisfied and retire; this is only my opinion; but I think it is conformable to the demand made by General Gaines of King Hatchy some months since. In fact, do all you can to save all you can; save the books particularly. It is probable the commandant will receive some communication from the vessels to-day, when he will know more certainly what are their motives in coming off the fort. I think it is only to shut the passage to the Indians. Twenty canoes went down the river yesterday, and were forced to return. The road between this and the Mickasukey is said to be stopped. Hillis Hadjo and Himathlo Mico were here last night to hear what vessels; they will remove all their cattle and effects across St. Mark's river this morning, and perhaps wait near thereto for the event.

I have been as brief as I can, to give you the substance of what appears facts that cannot be doubted. To enter into details in the present moment is useless. If the schooner is returned, get all the goods on board of her, and let her start off for Mounater creek, in the bottom of Cedar Key bay. You will there only have the skins to hide away. But no delay must take place, as the vessels will no doubt follow the land army; and perhaps even now some have gone round. I pray your strictest attention, for the more that is saved will be eventually more to your interest.

Let the bearer have as much calico as will make him two shirts for his trouble. He has promised to deliver this in three, but I give him four days. I am yours, affectionately,

A. ARBUTHNOT.

B.

*From A. Arbuthnot to Charles Cameron, Governor of Bahamas.*

SIR: Being empowered by the chiefs of the Lower Creek nation to represent the state of their nation to your excellency, that you may be pleased to forward the same for the information of His Majesty's Government, to whom alone they look for protection against the aggressions and encroachments of the Americans, I beg leave to submit to your excellency the enclosed representations, humbly praying that your excellency will be pleased to take an early opportunity of forwarding the same to Great Britain.

I am also instructed by Bowleck, chief of the Suwany, to make the demand herein enclosed;

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he never having had any share of the presents distributed at Prospect Bluff, though he rendered equally essential services as any of the other chiefs to the British cause, while at war with America; and was at New Orleans with a part of his warriors. His frontiers being more exposed to the predatory incursions of the back Georgians, who enter his territory and drive off his cattle, he is obliged to have large parties out to watch their motions and prevent their plundering; and, being deficient of ammunition, he prays your excellency will grant his small demand.

Humbly submitting the same, I have the honor to be, your excellency's most humble servant,

A. A.

*The humble representations of the chiefs of the Creek nation to his excellency Governor Cameron.*

First. We beg leave to represent that Edmund Doyle and William Hambly, lately clerks at Prospect Bluff to Messrs. Forbes, &c., and who still reside on the Appalachicola river, we consider as the principal cause of our present troubles and uneasiness. Hambly was the instrumental cause of the fort at Prospect Bluff being destroyed by the Americans, by which we lost the supplies intended for our future wars. Since then both these men have kept emissaries among us, tending to harass and disturb our repose, and that of our brethren of the Middle and Upper nation; they spread among us reports that the Cowetas, aided by the Americans, are descending to drive us off our lands; they equally propagate false.

C.

*From A. Arbuthnot to Benjamin Moodie, enclosing letters to Charles Bagot, Esquire, British Minister at Washington.*

SHAWNEE, CREEK NATION,  
January 27, 1818.

SIR: The enclosed, containing matter of serious moment, and demanding the immediate attention of his excellency the British Ambassador, I trust he will, for this time, forgive the trifling expense of postage, which I have endeavored to prevent as much as possible by compressing much matter in one sheet of paper. Should you, sir, be put to any trouble or expense, by this trouble I give you, by being made acquainted with the same, I will instruct B. m, Dunshee, & Co., to order payment of the same.

I have the honor to be, &c.

A. ARBUTHNOT.

*From A. Arbuthnot to the Honorable Charles Bagot.*

SIR: It is with pain I again obtrude myself upon your excellency's notice; but the pressing solicitations of the chiefs of the Creek nation, and the deplorable situation in which they are placed by the wanton aggressions of the Americans, I trust your excellency will take as a sufficient apology for the present intrusion.

In August last, the head chief of the Seminole Indians received a letter from General Gaines, of which I have taken the liberty of annexing your

excellency the contents as delivered me by the chief's head English interpreter, with King Hatchy's reply thereto.

This letter appears to have been intended to sound the disposition of the chief, and ascertain the force necessary to overrun the nation; for, from then, until the actual attack was made on Fowltown, the same General, with General Jackson, seem to have been collecting troops and settling in various quarters.

If your excellency desires to have further information respecting the situation of this country and its inhabitants, I can, from time to time, inform your excellency of such facts and circumstances as are stated to me by chiefs of known veracity, or which may come under my own observation; and your excellency's order, addressed to me at New Providence, will either find me there, or be forwarded me to this country.

With great respect, I have the honor to be, your excellency's most obedient servant,

A. A.

The following memorandum was on the back of the foregoing letter:

King Hatchy, 1,000; Boleck, 1,500; Oso Hatjo Choctawhachy, 500; Himashy Miso Chatchichy, 500; at present with Hillisajo —; at present under arms, 1,000 and more; attacking those Americans who have made inroads on their territory.

A quantity of gunpowder, lead, muskets, and flints, sufficient to arm one thousand or two thousand men.

Muskets, 1,000; arms smaller, if possible.

10,000 flints, a proportion of rifle put up separate.

50 casks gunpowder, a proportion for rifle.

2,000 knives, six to nine inch blade, good quality.

1,000 tomahawks.

100 pounds vermillion.

2,000 pounds lead, independent of ball for musket.

KING HATCHY,  
BOLECK.

*From General Gaines to the Seminole Chief.*

Your Seminoles are very bad people; I don't say whom. You have murdered many of my people, and stolen my cattle and many good horses, that cost me money; and many good houses that cost me money you have burnt for me; and now, that you see my writing, you'll think I have spoken right. I know it is so; you know it is so; for now you may say I will go upon you at random; but just give me the murderers, and I will show them my law; and, when that is finished and past, if you will come about any of my people, you will see your friends; and, if you see me, you will see your friend. But there is something out in the sea—a bird with a forked tongue—whip him back before he lands, for he will be the ruin of you yet. Perhaps you do not understand who or what I mean—I mean the name of Englishman.

I tell you this, that if you do not give me up

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the murderers who murdered my people, I say I have got good strong warriors, with scalping-knives and tomahawks. You harbor a great many of my black people among you at Sahwahnee. If you give me leave to go by you against them, I shall not hurt anything belonging to you.

GENERAL GAINES.

To the SEMINOLE CHIEF.

*From King Hatchy to General Gaines, in answer to the foregoing.*

You charge me with killing your people, stealing your cattle, and burning your houses; it is I that have cause to complain of the Americans. While one American has been justly killed, while in the act of stealing cattle, more than four Indians while hunting have been murdered by these lawless freebooters. I harbor no negroes. When the Englishmen were at war with America, some took shelter among them; and it is for you white people to settle those things among yourselves, and not trouble us with what we know nothing about. I shall use force to stop any armed Americans from passing my towns or my lands.

KING HATCHY.

To General E. P. GAINES.

D.

*Note of Indian Talks.*

In August, Capp had a letter from General Gaines, in substance as annexed, No. 1; and returned the answer, as by No. 2: nothing further was said on either side. The end of October, a party of Americans from a fort on Flint river surrounded Fowltown during the night, and began burning it. The Indians then in it fled to the swamp, and in their flight had three persons killed by fire from the Americans; they rallied their people, and forced the Americans to retire some distance, but not before they had two more persons killed. The Americans built a blockhouse or fort where they had fallen back to, and immediately sent to the fort up the country for assistance, stating the Indians were the aggressors; and also settled with Inhemocklo, for the loss his people had suffered; at the same time sending a talk to King Hatchy, by a head man, Apiny, that he would put things in such a train as to prevent further encroachments, and get those Americans to leave the fort. But no sooner was the good talk given, and before the bearer of it returned home, than hundreds of Americans came pouring down on the Indians, roused them to a sense of their own danger, they flew to arms, and have been compelled to support them ever since. It is not alone from the country, but by vessels entering Appalachicola river with troops, and settlers are pouring into the Indian territory, and, if permitted to continue, will soon overrun the whole of the Indian lands. From the talk sent King Hatchy, by Governor Mitchell, I am in hopes that those aggressions of the Americans on the Indian territory are not countenanced by the American Government, but originate with men devoid of principle, who set laws and instructions at defiance, and stick at no cruelty

and oppression to obtain their ends. Against such oppressions the American Government must use not only all their influence, but, if necessary, force, or their names will be handed down to posterity as a nation more cruel and savage to the unfortunate aborigines of this country, than ever were the Spaniards in more dark ages to the nations of South America.

The English Government, as the special protectors of the Indian nations, and on whom alone they rely for assistance, ought to step forward and save those unfortunate people from ruin. And as you, sir, are appointed to watch over their interests, it is my duty as an Englishman, and the only one in this part of the Indian nation, to instruct you of the talks the chiefs bring me for your information; and I sincerely trust, sir, you will use the powers you are vested with for the service and protection of those unfortunate people, who look up to you as their saviour. I have written General Mitchell, who I hear is an excellent man, and, as he acts as Indian agent, I hope his influence will stop the torrent of innovators, and give peace and quietness to the Creek nation.

I pray your excellency will pardon this intrusion, which nothing but the urgency of the case would have induced me to make.

I have the honor to be, yours, &c.

A. A.

E.

*From Cappichimicco and Bowleck to Governor Cameron.*

It is with pain we are again obliged to obtrude ourselves on your excellency's notice, in consequence of the cruel war we have been forced into by the irruptions of the Americans into the heart of our lands. It will be first necessary to state to your excellency, that one head chief, Kintahjah, received a letter from General Gaines in August last; a copy of which is enclosed, with the answer returned thereto. This letter only appears to have been a prelude to plans determined on by the said General and General Jackson, to bring on troops and settlers to drive us from our lands, and take possession of them; for, in the end of October, a party of Americans surrounded Fowltown during the night, and in the morning began setting fire to it, making the unfortunate inhabitants fly to the swamp, and who in their flight had three persons killed by the fire of the Americans. Our Indians rallying, drove the Americans from the town, but in their exertions had two more of their people killed. The Americans retired some distance, and built a fort or blockhouse to protect themselves, until the assistance they had sent for to the fort up the country should arrive. A letter falling into the hands of General Mitchell, the Indian agent, which states the Indians to have been the aggressors, he suspected its truth, and, on inquiry, found it was the reverse; in consequence, he made satisfaction to Inhinoothla, the chief of Fowltown, and his people, for the injuries they had sustained: at the same time, he desired a talk to be sent to our head chief, stating

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his wish to see all the Indians friends, and that in twenty days he would send and get the Americans to retire from the forts. But this has had no effect on the lawless invaders of our soil; for before the bearer of our talks could return home, he met hundreds of Americans descending on us. They have also settlers and troops which come from Mobile, and go up the Appalachicola river. Thus, seeing no end to those inroads, necessity compels us to have recourse to arms; and our brethren are now fighting for the lands they inherited from their fathers, for their families and friends.

But what will our exertions do without assistance? Our sinews of war are almost spent; and harassed as we have been for years, we have not been able to lay by the means for our extraordinary wants; and to whom can we look up to for protection and support, but to those friends who have at all former times held forth their hands to uphold us, and who have sworn in their late treaty with the Americans to see our just rights and privileges respected and protected from insult and aggression? We now call on your excellency, as the representative of our good father King George, to send us such aid in ammunition as we are absolutely in want of; and, as our brother chief, Hillisajo, was informed, when in England, that when ammunition was wanted to enable us to protect our just rights, that your excellency would supply us with what was necessary. We have applied to the Spanish officer at the fort of St. Mark's, but his small supply prevented his being able to assist us, and we have only on your excellency to depend. We likewise pray your excellency would be pleased to send an officer or person to lead us right, and to apportion the supply you may be pleased to send us agreeably to our proper wants.

In praying your excellency will lend an ear to our demand, and despatch it without delay, we remain your excellency's faithful and most obedient friends and servants,

CAPPICHIMICCO,  
BOLECK,

*For ourselves and all the other  
chiefs of the Lower Creek nation.*

F.

*Letter from A. Arbuthnot to Colonel Edwards Nicholls.*

NASSAU, N. P. August 26, 1817.

SIR: Especially authorized by the chiefs of the Creek nation, whose names I affix to the present, I am desired to address you, that you may lay their complaint before His Majesty's Government. They desire it to be made known that they have implicitly followed your advice in living friendly with the Americans who were their neighbors, and nowise attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood. Rather than make resistance they have retired lower in the peninsula. The town of Eahallaway, on the Chatahoochee, where Olismicco was chief, is one in-

stance of the encroachments of the Americans. This town is situated under the guns of Fort Gaines; and Micco was desired to submit to the Americans or his town would be blown to atoms. Rather than do so, he retired, and is now living in the lower nation, and his fields, and even where the town stood, is ploughed up by the Americans. They complain of the English Government neglecting them, after having drawn them into a war with America; that you, sir, have not kept your promise of sending people to reside among them; and that if they have not some person or persons resident in the nation to watch over their interest, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly to watch over the interest of the Creek nation, but you had hardly left the nation when he turned traitor, and was led by Forbes to take the part of the Americans. His letter to me, of which I annex you a copy, will show you what length he could go if he had the means. It is Hambly and Doyle who give the Indians all the trouble they experience. They send their emissaries among the Lower Creeks, and make them believe the Cowetas, aided by the Americans, are coming to destroy them. Thus both are put in fear, and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing the chief of the Coweta towns that they ought to live on friendly terms with their brethren of the lower nation, whose wishes were to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered from them rather favorably; and I hope the talk that was sent to the Big Warrior last June will heal the difference between them. Hillisajo arrived in my schooner at the Ocklocknee Sound last June, and was well received by all the chiefs and others who came to welcome him home. In consequence of his arrival a talk was held, the substance of which was put on paper for them; and it was sent, with a pipe of peace, to the other nations. Hillisajo wished to return to Nassau with me, but I prevailed on him to stay in the nation, and keep them at peace. I regret, sir, to notice this poor man's affairs, though, by his desire, it appeared that he arrived at Nassau a short time after I had left it in January, and Captain W. being here took charge of him, his goods, and money, prevailing on the Governor to let him stay with him until he went down to the nation, which it was his intention to do. Of the money received of Governor Cameron, he had only given him eighty dollars, by Captain W. a barrel of sugar, a bag of coffee, and a small keg of rum. And the interpreter, Thugart, informed that when Hillisajo asked for an account, Captain W. refused it, saying it would be useless to a man who could not read. He also misses two cases; one of which contains, he thinks, crockery. I have made inquiry of His Majesty's ordnance storekeeper, and he informs me the whole were delivered to Captain W.; they are, therefore, lost to Hillisajo.

I am desired to return Hillisajo's warmest ac-

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knowledgments for the very handsome manner you treated him in England, and he begs his prayer may be laid at the foot of His Royal Highness the Prince Regent. I left him and all his family well on the 20th June. Old Cappichimicco desires me to send his best respects, and requests that you will send out some people to live among them, and all the land they took from Forbes shall be theirs; at all events, they must have an agent among them to see that the Americans adhere to the treaty, and permit them to live unmolested on their own lands. This agent should be authorized by His Majesty's Government, or he will not be attended to by the Americans. In the gazettes of Georgia the Americans report the Seminole Indians are continually committing murders on their borders, and making incursions into the State. These are fabrications, tending to irritate the American Government against the poor Indians; for, during the time I was in the nation, there was only one American killed, and he with two others were in the act of driving off cattle belonging to Bowlegs, chief of Suwanee; whereas, three men and a boy were killed last June by a party of American cattle stealers, while in their hunting camps; the boy they scalped, and one of Bowlegs' head men was killed in St. John's river, in July. The backwood Georgians, and those resident on the borders of the Indian nation, are continually entering it, and driving off cattle. They have, in some instances, made settlements, and particularly on the Choctahatchy river, where a considerable number have descended.

By the treaty with Great Britain, the Americans were to give up to the Indians all the lands that may have been taken from them during the war, and place them on the same footing they were in 1811. It appears they have not done so; that Fort Gaines, on the Chatahoochee, and Camp Crawford, on the Flint river, are both on Indian territory, that was not in possession of America in 1811. They are fearful that, before any aid is given by the English Government, they will no longer be in possession of any territory. I wrote last January to his excellency the honorable Charles Bagot, respecting the encroachments of the Americans, as I was informed, by the copy of a letter from the right honorable Earl Bathurst, handed me by his excellency Governor Cameron, that His Majesty's Ambassador had received orders to watch over the interests of the Indians. Since my return here I have received of Mr. Moodie, of Charleston, an extract of a letter from the honorable Charles Bagot, that the expense of postage is so considerable, any further communications of the same nature must be sent him by private hands. Now, sir, as no person goes from this direct to Washington, how am I to be able to comply with his desire? Thus he will be kept ignorant of the situation of the poor Indians, and the encroachments daily made on their lands by the American settlers, while he may be told by the American Government that no encroachments have been made, and that the forts they still hold are necessary to check the

unruly Seminoles. Thus the person appointed to watch over the interest of the Indians having no other means of information than from the parties interested in their destruction, and seeing, from time to time, in the American gazettes, accounts of cruel murders, &c., committed by the Indians on the frontier settlements of the United States, he apprehends the Indians merit all the Americans do to them.

But let His Majesty's Government appoint an agent, with full powers to correspond with His Majesty's Ambassador at Washington, and his eyes will then be opened as to the motives of that influence, American individuals as well as the Government, in vilifying the Indians.

The power given me, and the instructions, were to memorialize His Majesty's Government, as well as the Governor General at Havana; but if you will be pleased to lay this letter before His Majesty's Secretary of State, it will save the necessity of the first; and I fear that a memorial to the Governor General would be of no use.

Referring you to the answer, I am, &c.

A. ARBUTHNOT.

To Lieut. Col. EDWARD NICHOLLS.

G.

*From A. Arbuthnot to William Hamblly.*

OCKLOCKNEE SOUND, May 3, 1817.

SIR: On my return home, this day, I received a letter signed by you, and dated 23d March. As you therein take the liberty of advising me, *as you say*, by order of the chiefs of the Creek nation, I am glad of, and shall embrace this opening you gave me, and reply to you at some length; and, sir, let me premise that, when you lived at Prospect Bluff, a clerk to Messrs. Forbes & Co., you did not consider Cappichimicco, McQueen, or any other of the chiefs of the lower nation, as outlaws, nor have they ever been considered as such by the English Government, who are the especial protectors of the Indian nation; and it ill becomes Mr. Hamblly to call Cappichimicco an outlaw, that man who has ever been his friend, and by his authority has prolonged his life. Yet, sir, the young chiefs and warriors of the Creek nation, considering you as the chief cause of their troubles, would have long ere this had possession of you, and perhaps with your life made you pay the forfeit for the injuries heaped on them, had not that man, who has been your friend from your early youth, stepped in as your protector. Yes, this is the man who Mr. Hamblly presumes to call an outlaw. A pardoned villain, when going to the gallows, would bless the hand that saved his life; but Mr Hamblly blasphemes his saviour.

As Mr. Hamblly's generous friend is the principal cause of my being in this country, as an honest man I shall endeavor to fulfil my promise to him and the other chiefs. The guilty alone have fear; an honest and upright man dreads no danger, fears no evil, as he commits no ill; and your arm of justice ought to be applied where it would rightly fall on the heads of the really guilty. Your mean and vile insinuations, that have been the cause of thefts and murders, come ill from him

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who has been the cause of the murder of hundreds. Though your usage was made villainous at the fort, yet your revenge was too savage and sanguinary. If your conduct, sir, to the Indians were guided by as pure motives as mine, you would endeavor to influence them, and respect each other as brothers, and live in harmony and friendship, cultivating their lands in Summer, and taking their diversions of hunting in Winter, respecting their neighbors, and making yourselves respected by them. If thus, sir, you would act, (and by your knowledge of their language you have much more in your power than any other man,) you would then be the true friend of the Indians. Were I an instigator of thefts and murder, would I hold the language I have done to the chiefs and others who have called on me? Ask the lieutenant commanding at Fort Gaines, if my letter to him breathed the strains of murder? Ask Opy Hatchy, or Dany, his interpreter, if the recommendatory note I sent him by order of Apiny, could be written by an instigator of murder? Ask Apiny himself if my language to him was that of a murderer? Ask Mappalitchy, a chief residing among the Americans on Oakmulgee, if my language and advice to him favored that of a murderer? All those and every Indian who has heard my talks, will contradict your vile assertions.

But Mappalitchy has given me a clue by which I can unravel from whence the aspersions come, not from Apiny, Hatchy, or any of the chiefs of the upper towns, but from him who endeavors to lead them to mischief and quarrels with each other.

Did not the chiefs hear my note read with respect, and perfectly according to my sentiments of being all as brethren, uniting in the bonds of friendship and love? Did not they agree to smoke the pipe of peace with their brethren of the lower nation, and live in future as brothers? What made some of them alter their minds afterwards? The interference of a humane man, who counsels them to write me, demanding my removal from a band of outlaws, and which letter is signed "William Hamby."

I shall only make one more observation, and that will show from whence I came, and whether I came among the Indians as a revenger or as the friend of peace and harmony.

In the Spring of 1816, Mr. Hamby sent Governor Cameron a letter, containing talks of the chiefs of the Indian nations; they were forwarded to England, and his excellency handed me, on my leaving Providence, an answer thereto from the right honorable Earl Bathurst, one of His Majesty's chief Secretaries of State, that I might make the same known to the chiefs on my arrival in the nation. What will Governor Cameron think of the man who, in 1816, could write against the encroachments of the Americans on the Indian nation, and, in the Spring of 1817, call the chiefs of that nation, for whom he more especially wrote, outlaws? Mr. Hamby may sell his services to America; but no man can expatriate himself from that allegiance due to his native coun-

try; and a government may call on a friendly nation to give up a subject that has seriously wronged her. I recommend Mr. Hamby to be content with the *douceur* he may have received, and permit the unlettered Indian to live quietly and peaceably on his native land.

I shall send a copy of this letter, with the one from you, to be read by the chiefs of this nation, and shall, at the same time, take an opportunity of expressing myself more fully than I did in the note sent by Apiny.

Wishing you a speedy recantation of your errors, and a return to your former way of thinking, I am your obedient servant,

A. ARBUTHNOT.

H.

*Letter from A. Arbuthnot to the Governor of Havana.*

The chiefs of the Creek nation, whose names are hereunto annexed, beg leave to approach your excellency, and represent their complaints. Long imposed on by the persons keeping stores in this country, in charging us exorbitant prices for their goods, while they only allow us a very trifling one for our peltry, we have found it necessary to look out for a person that will deal fairly with us, and we wish to establish a store for him on Appalachicola river. We have made application to the commander of St. Mark's, and he referred us to your excellency. It is not alone the imposition that has been practised upon us, that has made us presume to address your excellency; we have complaints of a more serious nature against the persons employed by the only house that has been established among us, that of Mr. Forbes.

In the first place, some years back, under false pretences, they attempted to rob us of a very large portion of our best lands; and we the more readily acceded to it, from the faithful promise given us that they would get English people to settle it, and live among us, but, far from doing this, Mr. Forbes attempted to sell it to the American Government, and settle it with Americans. Thus finding ourselves deceived and imposed on, we withdrew our grant about three years since, which, from the stipulations contained therein not being fulfilled on the part of Mr. Forbes, we conceived we had a right to do. Secondly, Mr. Doyle and Mr. Hamby, the two persons left in the nation to carry on Mr. Forbes's business, have, for more than two years, been endeavoring to influence us to join the Americans; and finding that fair means would not *secure* us from our attachments to our ancient friends the English, they have recently had recourse to threats of bringing the Americans down upon us; and that people only want a pretext to attack us, which the said Doyle and Hamby attempt to give them, by spreading false reports of our murdering the Americans, stealing their cattle, and preparing for war against them, while, in fact, it is the Americans who murder our red brethren, steal our cattle by hundreds at a time, and are daily encroaching on our lands, and maintaining the



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settlers in their ill-gotten possessions by armed force.

On the Choctahatchy river there are a large body of Americans forming settlements, and more are daily joining them. As this river is far within that line marked out by your excellency's Government and the Americans, some years since, (although that line was unknown to us until very lately, and we never gave our sanction, nor, in fact, knew of any sale of our lands made to the Americans,) we trust your excellency will give order to displace them from within the line, and send them back to their own country. Our delaying to address your excellency to represent the forementioned grievances has been owing to the want of a person to attend to our talks, and put them in writing for us. The commander of the fort at St. Mark's has heard all of our talks and complaints. He approves of what we have done and what we are doing; and it is by his recommendation we have thus presumed to address your excellency.

We have the honor to be, &c.

A. ARBUTHNOT.

His Exc'y the GOVERNOR GENERAL, &c.

No. 1.

*Power of attorney from the Indian chiefs to A. Arbuthnot.*

Know all men by these presents, that we, chiefs of the Creek nation, whose names are affixed to this power, having full faith and confidence in Alexander Arbuthnot, of New Providence, who, knowing all our talks, is fully acquainted with our intentions and wishes, do hereby, by these presents, constitute and appoint him, the said Alexander Arbuthnot, our attorney and agent, with full power and authority to act for us, and in our names, in all affairs relating to our nation, and also to write such letters and papers as to him may appear necessary and proper for our benefit and that of the Creek nation.

Given at Ocklocknee Sound, in the Creek nation, this seventeenth day of June, one thousand eight hundred and seventeen.

- 1 Cappachimico, his x mark.
- 2 Inhimathlo, his x mark.
- 3 Charle Tustonaky, his x mark.
- 4 Otusmico, his x mark.
- 5 Ochacona Tustonoky, his x mark.
- 6 Imathluche, his x mark.
- 7 Inhimatchluchy, his x mark.
- 8 Lahoe Inhamatchlo, his x mark.
- 9 Hourathee Micho, his x mark.
- 10 Hillisajo, his x mark.
- 11 Tamuches Haho, his x mark.
- 12 Opothlimico, his x mark.

Witness: PETER SHUGERT, *Interpreter*.

*Certified explanation of names and towns to which the foregoing chiefs belong, agreeably to the numbers set opposite thereto.*

1. Kinhigee, chief of Mickasukey.
2. Inhemothlo, chief of Fowltown.
3. Charle Tustonoky, second chief of Oakmulgee Town.

4. Chief on the Conholoway, below Fort Gaines.
5. Oponey, chief of the Oakmulgee Towns.
6. Chief of the Atlapalgas.
7. Chief of the Pallatchacoley.
8. Chief of the Chehaws.
9. Chief of the Red Sticks.
10. Francis, (the prophet.)
11. Peter McQueen, chief of the Tallahasses, (an old Red Stick.)
12. A Red Stick, created chief by the lower towns.

Question by the court. Have you, at any time within the last twelve months, heard any conversation between the prisoner and the chief called Bowlegs, relating to the war between the United States and the Seminoles?

Answer. I heard the prisoner tell Bowlegs that he had sent letters to the Prince Regent, and expected soon to have an answer. Some time afterwards, some of the negroes doubted his carrying those letters, when the prisoner stated that he had, but the distance being great, it would take some time to receive an answer.

By the court. State to the court when and where you first saw the letter signed "A. Arbuthnot," dated April 2, 1818, referred to in the first specification of the second charge.

Answer. About the 6th of April, a black man, who said he had received it from an Indian, gave it to Mr. Ambrister, whom I saw reading it.

Question by the court. Do you know by what means that letter was conveyed to Suwanee?

Answer. I understood by an Indian who was sent from Fort St. Mark's.

Question by the court. Who paid the Indian for carrying the letter referred to in the last interrogatory?

Answer. I do not know.

Question by the court. What steps were taken by the negroes and Indians on the receipt of the letter?

Answer. They first believed the bearer to be an enemy, and confined him; but, learning the contrary, began to prepare for the enemy, and the removal of their families and effects across the river. The Indians lived on the opposite side.

Question by the court. Did the Indians and negroes act together in the performance of military duty?

Answer. No; but they always said they would fight together.

Question by the court. Did not Nero command the blacks, and did not Bowlegs own Nero; and was not the latter under the immediate command of Bowlegs?

Answer. Nero commanded the blacks, and was owned and commanded by Bowlegs; but there were some negro captains who obeyed none but Nero.

Question by the court. What vessel brought to Suwanee the ammunition which you said was sold by the prisoner to the Indians and negroes?

Answer. The schooner Chance, now lying at this wharf. She is a foretopsail vessel, belonging to the prisoner.

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The witness also identified the manuscript of the prisoner on the following documents, viz: No. 1, granting him full power to act in all cases for the Indians, as recorded before; and also a letter, without signature, to the Governor of St. Augustine, numbered 2; and further, a letter, without date, to Mr. Mitchell, the Indian agent, numbered 3; an unsigned petition of the chiefs of the Lower Creek nation to Governor Cameron, praying his aid in men and munitions of war numbered 4; all of which the witness stated to be in the handwriting of the prisoner.

## No. 2.

*[Supposed to be from Bowlegs to the Governor of St. Augustine.]*

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer to the same is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you; and hope you will, when occasion offers, advise me of such things as may be of service to myself and people. My warriors and others that go to St. Augustine, return with false reports, tending to harass and distress my people, and preventing them from attending to their usual avocations. At one time, the Americans and Upper Indians, supported by a force of about three thousand men, were running lines far within the Indian territory; at another time, are collecting a force at Fort Mitchell, in the forks of Flint and Chatahoochee rivers, to fall on the towns below.

Now, sir, we know of no reason the Americans can have to attack us, an inoffensive and unoffending people. We have none of their slaves; we have taken none of their property since the Americans made peace with our good father, King George. We have followed the orders of his officer that was with us, Lieut. Colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our territory, stealing our cattle, and murdering and carrying off our people. That same officer also told us, we, as allies to the great King, our father, were included in the treaty of peace between our good father and the Americans; and that the latter were to give up all the territory that had been taken from us before and during the war. Yet, so far from complying with the ninth article of that treaty, they are daily making encroachments on our land, getting persons, who are not known to the chiefs, and, without any power or authority, to grant and sign over lands to them. Thus they deceive the world, and make our very friends believe we are in league with them.

The principal chiefs of the nation, with the head warrior, assembled at my town on the 8th instant, and came to the resolution of informing the British Minister at Washington of the conduct of the Americans and the officers of their Government towards us. It has been done accordingly, and copies sent to England.

We demand of the King, our father, to fix some of his people among us, who may inform him, from time to time, of what is passing, and see the Americans do not extend themselves on our lands.

The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the Governors, I shall always entertain the greatest regard; but for the people, they do not act so as to merit any esteem and protection. You desire I would chase those marauders who steal my cattle. My people have lately driven some Americans from Lahheway, and I have no doubt the Americans will lay hold of this as a pretext to make war on us, as they have before done, in stating we harbor their runaway slaves.

To Don JOSE COPPINGER,  
Governor of St. Augustine.

## No. 3.

SIR: King Hatchy, the head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but ascending the Appalachicola in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and good-will to the Indians induces the head chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and order that those who have already presumed to seize our fields may retire therefrom.

The Indians have seized two persons they think have been greatly instrumental in bringing the Americans upon them, and they are now in their possession as prisoners. It is even reported they have made sales of Indian lands without the knowledge, consent, or approbation, of the chiefs of the nation; and, from their long residence in the nation, and the great influence one of those people formerly enjoyed among the chiefs as their chief, there is some reason to believe he has been guilty of improper conduct to the Indian nation.

Gen. MITCHELL, Ag't for Indian Affairs.

## No. 4.

*Petition of the chiefs of the Lower Creek nation to Governor Cameron.*

We, the undersigned, are deputed by the chiefs of the Creek nation to wait on your excellency, and lay before you their heavy complaints.

To the English we have always looked up as friends, as protectors, and on them we now call to aid us in repelling the approaches of the Americans, who, regardless of treaties, are daily seizing

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on our lands and robbing our people. They have already built seven forts on our land; they are making roads and running lines into the very heart of our country; and, without the interference of the English, we shall soon be driven from the land we inherited from our forefathers.

The Americans tell us the English will regard us no more, and we had better submit to them; but we cannot submit to their shackles, and will rather die in defence of our country.

When peace was made between the English and Americans, we were told by Lieutenant Colonel Nicholls that the Americans were to give up our lands they had taken from us, and we were desired to live quietly and peaceably, in nowise molesting the Americans. We have strictly followed those orders, but the Americans have not complied with the treaty. Colonel Nicholls left Mr. Hamby in charge of the fort at Prospect Bluff, with orders to hear us if any cause of complaints, and represent the same to the British Government; but he turned traitor and brought the Americans down on the fort, which was blown up, and many of our red brethren destroyed in it. The ammunition stores intended for our use were either destroyed or taken off by the Americans. We have sent several messengers to inform your excellency of these proceedings of the Americans, but they have never returned to us with an answer. Three of our red brethren have lately been killed by the Americans while hunting on our lands, and they threaten to attack the towns of Mickasukey and Suwanee, the only two large towns left us in the Creek nation; and without aid from your excellency, we cannot repel their attack.

We are therefore deputed to demand of your excellency the assistance of troops and ammunition, that we may be able effectually to repel the attack of the Americans, and prevent their further encroachments; and, if we return without assistance, the Americans, who have their spies among us, will the more quickly come upon us.

We most humbly pray your excellency will send such a force as will be respected and make us respectable.

[*The following endorsed on the foregoing.*]

CHARLES CAMERON, Esq.,

*Governor, Commander-in-chief, &c.*

I beg leave to represent to your excellency the necessity of my again returning to the Indian nation with the deputies from the chiefs; and, as my trouble and expense can only be defrayed by permission to take goods to dispose of among them, I pray your excellency will be pleased to grant me such a letter or license as will prevent me from being captured, in case of meeting any Spanish cruiser on the coast of Florida.

The court adjourned to meet to-morrow morning, at 7 o'clock.

FORT ST. MARK'S, April 27, 1818.

The court convened pursuant to adjournment.  
Present:

Major General E. P. GAINES, *President.*

*Members.*

Colonel King,	Colonel Dyer,
Colonel Williams,	Lieut. Col. Lindsay,
Lieut. Col. Gibson,	Lieut. Col. Elliott,
Major Muhlenburg,	Major Fanning,
Major Montgomery,	Major Minton,
Captain Vashon,	Captain Crittenden.
Lieutenant J. M. Glassell,	<i>Recorder.</i>

When the further examination of the witness, PETER B. COOK, took place, viz:

Question by the prisoner. How long have you been acquainted with the settlements on the Sawahnee?

Answer. Between six and seven months.

Question by the prisoner. For what term of years did you engage to live with the prisoner?

Answer. For no stated period; I was taken by the year.

Question by the prisoner. Were you not discharged by the prisoner from his employ?

Answer. He told me he had no further use for me after I had written the letters to Providence.

Question. Where did you stay after you were discharged?

Answer. I stayed in a small house belonging to a boy called St. John, under the protection of Nero.

Question. What was the subject matter of the letters you wrote to Providence?

Answer. After being refused by the prisoner a small venture to Providence, I wrote to my friends for the means to trade by myself.

Question by the prisoner. Do you believe the prisoner had knowledge of the venture being on board the schooner?

Answer. I do not believe he did; it was small, and in my trunk.

Question by the prisoner. Do you know that Ambrister was the agent of the prisoner?

Answer. I do not.

Question. Do you think that the powder and lead shipped would more than supply the Indian and negro hunters?

Answer. I did not see the powder and lead myself, but was told by Bowlegs that he had a great quantity; he had them keeping to fight with.

Question. Did the Indians reside on the east side of the river?—Answer. They did.

Question. You were asked if the negroes and Indians, when the letter marked A was communicated, did not take up arms. Had they received information of the defeat of the Indians at Mickasukey prior to that time?

Answer. It was afterwards, I believe, they received the information.

Question. Did not Bowlegs keep other powder than that got from the prisoner?

Answer. He had some he got from the bluff, which was nearly done; he said his hunters were always bothering him about powder.

Question. Did you state that, at the time Ambrister ascended the river, there was no other vessel at the mouth of the river?

*Defeat of the Seminole Indians, &c.*

Answer. There was none other there; there was one had sailed.

Question. There is a letter A spoken of; how do you know that the son of the prisoner had that letter in his possession?

Answer. I saw him with it, which he dropped, and a boy called John picked it up and gave it to me.

Question. You stated that the Indians and negroes doubted the fidelity of the prisoner in sending letters to the Prince Regent; do you think the prisoner would have been punished by them had he not complied with their wishes?

Answer. I do not know.

Question. Do you believe the prisoner was compelled to write the Indian communications?

Answer. He was not compelled.

WILLIAM HAMBLY, a witness for the prosecution, being duly sworn, and commencing a statement of what he heard the chiefs say, and the prisoner objecting to hearsay evidence of that kind, the court was cleared in order to take the question; when they decided that the prisoner's objection was not valid. The witness was therefore recalled, and stated that, fifteen or twenty days after the prisoner arrived at Ocklocknee, the Seminole Indians began to steal horses from the United States' settlements, and committed murders on the Satilla river, which, he was informed by them, was at the instigation of the prisoner. The chiefs of the Little Villages, in witness's neighborhood, then desired him to write a few lines to the prisoner, stating those reports, and that he did not know that those Indians he was exciting had long been outlawed, and cautioned him against such proceedings, or he might be involved in their ruin. This the witness did; when the prisoner wrote him a long and insulting letter, which was lost, upbraiding the witness for calling those Indians outlaws, and accusing him of exciting the Indians to cruel war. The witness was told by chiefs and Indians, who had seen the prisoner, that he advised them to go to war with the United States, if they did not surrender them the lands which had been taken from them, and that the British Government would support them in it.

The Indians that took the witness and a certain Mr. Doyle prisoners, which happened on the 13th of December last, told them it was by the prisoner's order; and, on their arrival at the Mickasuky, (as prisoners,) King Hijah and all his chiefs told them it was by the prisoner's orders they were taken and robbed. On their arrival at Suwany, they were told by the Indian and negro chiefs, who sat in council over them, that the prisoner had advised he should be given up to five or six Choctaw Indians, who were saved from the negro fort, who would revenge themselves for the loss of their friends at that place. On their return from Suwany, the chief King, Hijah, told them that he had got the prisoner to write several letters for him; one to the Governor of Providence, one to the British Minister at Washington, one to the Secretary of State in London, and one to the American agent for In-

dian affairs, protesting against the proceedings of the commanding officer at Fort Scott. While the witness was at Suwany, the Indian chiefs told him that the prisoner had arrived at that place with ten kegs of powder on board his vessel; and, whilst in Fort St. Mark's, some time in March, Hillis Hajo, or Francis, brought an order from the prisoner to the commandant for two kegs of powder, with other articles, which were in his possession.

Question by the court. Were any murders or depredations committed on the white settlements by the Indians previous to the prisoner's arrival at Ocklocknee?

Answer. None, except one murder at Fort Gaines, which was before or about the time of the prisoner's arrival.

Question. How long have you resided among the Indians? State to the court whether you are acquainted with the Indian language, and how long since you learned it?

Answer. I have resided among them fourteen years, and have understood their language twelve years.

Question. Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements had it not been at the instigation of the prisoner, and a promise, on his part, of British protection?

Answer. I do not believe they would without they had been assured of British protection.

Question by the court. What was the light in which the prisoner was viewed by the hostile Seminoles? Was it that of an authorized agent of the British Government?

Answer. The different chiefs always represented him to me as such. The witness recognised the letter marked G, and signed A. Arbuthnot, as being a copy of the one alluded to in his testimony as lost.

Question by the prisoner. Are you acquainted with the prisoner's handwriting?

Answer. I have seen it, but cannot say I am acquainted with it.

Question. Is that which you have just seen, and say is the copy of the one you lost, the prisoner's handwriting?

Answer. It looks to be his handwriting, but I cannot say positively.

Question. Was the prisoner considered as the agent of the Seminoles at the time those murders were committed?

Answer. I had not seen the prisoner at that time. The Indian chiefs told me that the prisoner had reported himself to them as an English agent.

Question. Where did you understand the prisoner to be when you were taken prisoner?

Answer. The Indians told us that he had gone over to Providence, but was expected back by the time we should arrive at Suwanee.

Question. Did you not request King Hijah to prevail upon the prisoner to give you a passage in his schooner to Providence?

Answer. Yes, but was told that the prisoner refused it; stating that, if we were forced upon

*Defeat of the Seminole Indians, &c.*

him, he would blindfold us, and make us walk overboard.

Question. What were the reasons given by King Hijah for the prisoner's not granting your request?

Answer. King Hijah stated that the prisoner was fearful of meeting with an American vessel, when we should be taken out, and he thereby lose his schooner.

EDMUND DOYLE, a witness on the part of the prosecution, being duly sworn, was questioned as follows:

Question by the Judge Advocate. Do you know anything that would lead to substantiate the charges against the prisoner now before you?

Answer. I know nothing but from common report.

WILLIAM FULTON, an evidence in the present prosecution, being duly sworn, testified to the copy of a letter from A. Arbuthnot to General Mitchell, agent for Indian affairs, dated Suwanee, January 19, 1818, and marked No. 6, as acknowledged by the prisoner to be the same in substance as one written by himself at that time. An extract from the letter was then read.

## No. 6.

*Extract from a letter written by A. Arbuthnot to General Mitchell, American agent for the Creek nation of Indians, dated*

SUWANEE, January 19, 1818.

In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war, which, if persisted in, I foresee must eventually be their ruin; and as they were not the aggressors, if, in the height of their rage, they commit any excesses, that you will overlook them as the just ebullitions of an indignant spirit against an invading foe. I have the honor, &c.

A. ARBUTHNOT.

*By order of King Hijah and Bowlegs, acting for themselves and the other Chiefs.*

Question by the prisoner. Where did the prisoner acknowledge the letter just read to be a copy of the one written by himself?

Answer. In the encampment before this place, about the 6th or 7th instant.

Question by the prisoner. Was not the acknowledgment when he was a prisoner?

Answer. It was.

Question by the prisoner. Did you hear a gentleman say to the prisoner, whilst in custody, that those who recommended the scalping-knife and tomahawk should feel their keenest edge?

Answer. I did hear a gentleman say that those who excited the Indians to the murder of the unoffending should feel the keenest edge of the scalping-knife; but, as well as I recollect, that observation was not made until after the repeated acknowledgments of the prisoner of having written the letter.

Question by the court. Was not the confession of the prisoner to this letter made voluntary, and without any constraint whatever?

Answer. I conceive it was.

The evidence on the part of the prosecution being closed, the prisoner required Robert C. Ambrister as one of his witnesses, against whom criminal charges had been filed, and who was in custody on account thereof; to which the Judge Advocate objecting, the court was cleared to take its sense; when it was decided that Robert C. Ambrister, now in custody for similar offences with the prisoner, cannot be examined as evidence before this court.

JOHN LEWIS PHENIX, a previous witness, now on the part of the prisoner, being again sworn, was questioned as follows, viz:

Question by the prisoner. Was there any other vessel at the mouth of the Suwany river when Ambrister seized your schooner?—Answer. Yes.

Question. What vessel was it? Was it not the vessel which Ambrister came in?

Answer. It was a sloop, and I understood Ambrister came in her.

Question. Did Ambrister ever mention to you who recommended him to seize the prisoner's schooner, or who assisted him in stimulating the negroes to do so?

Answer. No; I understood he came on board of his own accord.

Question by the court. Have you, since you commanded the prisoner's vessel, ever brought any arms to that part of the country?

Answer. No; I brought a quantity of lead and ten kegs of powder in the last trip.

JOHN WINSLET, a former witness on the part of the prosecution, being recalled on behalf of the prisoner, was questioned as follows, viz:

Question by the prisoner. Are you not of opinion that the letter which you say was written by the prisoner to the Little Prince is now in the possession of the Little Prince?

Answer. After reading it, I returned to him, and believe it to be still in his possession, as Indians seldom destroy papers of that kind.

The prisoner requesting some time to make up his defence, he was given until to-morrow evening, at four o'clock.

FORT ST. MARK'S,  
April 28, four o'clock, P. M.

The Recorder having read over the proceedings of the court with closed doors, the prisoner was recalled into court, and made the defence, marked K, and attached to these proceedings. The doors were then closed, and, after most mature deliberation on the evidence adduced, the court find the prisoner, Alexander Arbuthnot, guilty of the first specification to the first charge, and guilty of the first charge; guilty of the first and second specifications of the second charge, and guilty of the second charge, leaving out the words "acting as a spy;" they therefore do, on the most mature reflections, sentence the prisoner, Alexander Arbuthnot, to be suspended by the neck until he is dead; two-thirds of the court concurring.

EDMUND P. GAINES,  
Major Gen., Pres't of the Court.  
S. M. GLASSELL, Recorder.

*Defeat of the Seminole Indians, &c.*K.  
DEFENCE.

*May it please this Honorable Court:* The prisoner arraigned before you is sensible of the indulgence granted by this honorable court in the examination of the case now before them. It is not the wish of the prisoner, in making his defence, to tire the patience of the court by a minute reference to the voluminous documents and papers, or to recapitulate the whole of the testimony which has come before the honorable court in the course of this investigation. Nor is it the intention of the prisoner to waste the invaluable time of this court by appeals to their feelings or sympathy, though I am persuaded that sympathy nowhere more abounds than in a generous American breast. My only appeal is to the sound and impartial judgment of this honorable court, the purity and uprightness of their hearts, that they will dispassionately and patiently weigh the evidence they have before them, apply the law, and on these, and these alone, pronounce their judgment.

If this honorable court please, I shall now proceed to examine the law and evidence that is relied on by this honorable court in support of the first charge and specification. Winslet, a witness on the part of the prosecution, says, the Little Prince showed him a letter written in June last, signed A. Arbuthnot, requesting his friendship with the lower nation of Indians; the same witness stated that he believed the letter to be now in the possession of the Little Prince. Here, may it please this honorable court, I would call their attention to the law relating to evidence; first presuming that the rules of evidence are the same, whether in civil or military tribunals.—*Macomb*, 99.

This point being concluded, the next inquiry is, what are the rules of evidence with respect to the admission of letters, or papers of private correspondence, in a court of criminal jurisdiction? May it please this honorable court, must you not produce the original letters and papers, if they are not lost or mislaid, so that they cannot be obtained; and, in case they are lost, proof must be made of the handwriting being the same as that of the original before they can be received as evidence?—(*Macomb on Courts Martial; Peake's Evidence; Gilbert's Laws of Evidence.*) No instance can be cited where a copy of a letter was read as evidence when the original could be obtained, much less the giving in evidence the contents of such letter from bare recollection. The only proof that this honorable court has of the existence of such a letter being in the hands of any person, or its contents being known, is the vagrant memory of a vagrant individual. Make this a rule of evidence, and, I ask you, when would implication, construction, and invention stop? whose property, whose reputation, and whose life would be safe? Here I would beg leave to mention a remark made by the president of this court in the course of this investigation, which was, that, notwithstanding the letter was

proved by the witness to be in the possession of the Little Prince, this court could not notice that circumstance, because there was no means by which it could be obtained. I would ask the honorable court what means they have adopted, or what exertions have they made, to procure this letter? If the honorable court please, I shall here close the defence on the first charge and specification, believing that they are neither supported by law nor evidence.

May it please the honorable court, I will now come to the second charge, and first specification of that charge. In support of this charge and specification, the evidence is a letter written to my son. If the court please, this letter was written in consequence of the situation of my property at Sahwahnee, and the large debts that were due me from Bowlegs and his people. Nothing, I believe, of an inflammatory nature can be found on reading the document marked A, authorizing the opinion that I was prompting the Indians to war. On the contrary, if the honorable court will examine the document marked A, they will see that I wished to lull their fears, by informing them that it was the negroes, and not the Indians, the Americans were principally moving against.

If the honorable court please, I will make a few remarks on the second specification, and here close my defence. In proof of this charge, the court have before them the evidence of Hambly, Cook, and sundry letters purporting to be written by myself to different individuals. May it please the court, what does Cook prove? Why, that I had ten kegs of powder at Sahwahnee. Let me appeal to the experience of this court, if they think this quantity of powder would supply one thousand Indians, and an equal number of blacks, more than two months for hunting?

As to the letters named in this specification, may it please the honorable court, the rules of evidence laid down in the first part of this defence will apply with equal force in the present case. It remains now, may it please the honorable court, to say something as to Hambly's testimony; and, may it please this honorable court, the rule laid down in this case as to hearsay evidence will be found without a precedent. A strong case was stated by an intelligent member of this court, on the examination of this part of the evidence; that is, would you receive as testimony what a third person had said, who, if present, you would reject as incompetent? Apply this principle to the present case; could an Indian be examined on oath in our courts of judicature? If, then, the testimony of savages is inadmissible, Hambly proves nothing.

Here, may it please this honorable court, I close my reply to the charges and specifications preferred against me; being fully persuaded that, should there be cause of censure, my judges will, in the language of the law, lean to the side of mercy.

A. ARBUTHNOT.

*Defeat of the Seminole Indians, &c.*

*Continuation of the minutes of the proceedings of a special court, whereof Major General Gaines is President, convened by order of the 26th of April, 1818.*

FORT ST. MARK'S, April 27, 1818.

The court proceeded to the trial of Robert C. Ambrister, a British subject, who, being asked if he had any objections to any one of the members of the court, and replying in the negative, was arraigned on the following charges and specifications, viz :

*Charges against Robert C. Ambrister, now in custody, who says he is a British subject.*

CHARGE 1st. Aiding, abetting, and comforting the enemy, supplying them with means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

*Specification 1st.* That the said Robert C. Ambrister did give intelligence of the movements and operations of the American army between the 1st and 20th of March, 1818, and did excite them (the negroes and Indians) to war against the army of the United States, by sending their warriors to meet and fight the American army, whose Government was at peace and friendship with the United States and all her citizens.

CHARGE 2d. Leading and commanding the Lower Creeks in carrying on a war against the United States.

*Specification 1st.* That the said Robert C. Ambrister, a subject of Great Britain, which Government was in peace and amity with the United States and all her citizens, did, between the 1st of February, and 20th of March, 1818, levy war against the United States, by assuming command of the Indians, in hostility and open war with the United States, and ordering a party of them to meet the army of the United States, and give them battle, as will appear by his letters to Governor Cameron, of New Providence, dated 20th March, 1818, which are marked A, B, C, and D, and the testimony of Mr. Peter B. Cook, and Captain Lewis, of the schooner Chance. By order of the court,

J. M. GLASSELL, Recorder.

To which charges and specifications pleaded as follows, viz :

To the 1st charge and specification, *not guilty.*

To the 2d charge and specification, *guilty, and justification.*

Adjourned until to-morrow morning at 7 o'clock.

FORT ST. MARKS, April 28, 1818.

The court met pursuant to the adjournment. Present:

Major General GAINES, President.

Members.

Colonel King,	Colonel Dyer,
Colonel Williams,	Lieut. Col. Lindsay,
Lieut. Col. Gibson,	Lieut. Col. Elliott,
Major Muhlenburg,	Major Fanning,
Major Montgomery,	Major Minton,
Captain Vashon,	Captain Crittenden.
Lieutenant J. M. Glassell, Recorder.	

The Recorder then read to the court the following order, viz :

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen's Office, near St. Marks,  
April 28, 1818.

GENERAL ORDER.

Captain Allison, of the 7th infantry, is detailed to form a supernumerary member of the special court now sitting at Fort St. Marks.

By order:

ROBERT BUTLER, Adj't Gen.

Pursuant to the above order, the supernumerary member took his seat.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated, that about the 5th or 6th of April, 1818, his vessel and himself having been captured by the prisoner, and he brought to Suwanee as a prisoner, there was an alarm among the negroes and Indians, created by learning some news from Mickasuky, at which time the prisoner appeared active in sending orders, and sending a detachment to meet the American army. The witness also stated, that the prisoner appeared to be a person vested with authority among the negro leaders, and gave orders for their preparation for war, procuring ammunition, &c., and that the leaders came to him for orders; the prisoner furnished them with powder and lead, and recommended to them the making of ball, &c., very quickly. The witness also stated, that the prisoner occasionally dressed in uniform, with his sword; and that on the first alarm, which he understood was from Mickasuky by a negro woman, he put on the uniform. The witness further stated, that some time about the 20th March, 1818, the prisoner, with an armed body of negroes, (twenty-four in number,) came on board his vessel, and ordered him to pilot them to Fort St. Marks, which he stated he intended to capture before the Americans could get there, threatening to hang the witness if he did not obey.

Question by the court. Did you ever understand by whose authority, and for what purpose, the accused came into the country?

Answer. I have frequently heard him say he came to attend to Mr. Woodbine's business at the bay of Tampa.

Question by the prisoner. Did I not tell you, when I came on board the schooner Chance, I wished you to pilot me to St. Mark's, as I was informed that two Americans, by the names of Hambly and Doyle, were confined there, and I wished to have them relieved from their confinement?

Answer. You stated you wanted to get Hambly and Doyle from St. Mark's. I do not know what were your intentions in so doing.

Question. Did I not tell you that I expected the Indians would fire upon me when arriving at St. Mark's?

Answer. You did not. You stated that you intended to take the fort in the night by surprise.

Question. Did you see me give ammunition

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to the negroes and Indians? if so, how much, and at what time?

Answer. I saw you give powder and lead to the negroes when you came on board, and advised them to make balls; and I saw you give liquor and paint to the Indians.

Question. Have you not often heard me say, between the 1st and 20th of April, that I would not have anything to do with the negroes and Indians in exciting them to war with the United States?

Answer. About the 15th of April I heard you say you would not have anything to do with the negroes and Indians; I heard nothing about exciting them to war.

Question. Can you read writing?

Answer. Not English writing.

Question. Did you not hear me say, when arriving at Suwaney, that I wished to be off immediately for Providence?

Answer. I did not. After the alarm, you said you wished to be off for Tampa.

Question. Did you not say to the accused you wished to visit Mr. Arbuthnot, at his store, on Suwaney, and get provisions yourself?

Answer. I did not. I stated I wanted provisions.

Question. Did I send or command any Indians to go and fight the Americans?

Answer. I did not exactly know that you sent them; the Indians and negroes were crowding before your door, and you were dividing the paint, &c. among them; and I understood a party was going to march.

Question. Did I not give up the schooner in charge to you as captain?

Answer. After our return from Suwaney town, you directed me to take charge of her to go to Tampa.

JOHN J. ARBUTHNOT, a witness on the part of the prosecution, being duly sworn, stated, that some time about the 23d of March, the prisoner came with a body of negroes, partly armed, to his father's store on Suwaney river, and told the witness that he had come to do justice to the country by taking the goods and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner stated to him that he had come to the country on Woodbine's business to see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwaney to meet the Americans to give them battle, which party returned on meeting the Mickasuky Indians in their flight. The witness also testified to the following letter, marked A, and referred to in the specification of the 2d charge as the writing of the prisoner.

A.

*Robert C. Ambrister to Governor Cameron.*

*SAHWAHNEE, (near St. Mark's fort,)*

*March 20, 1818.*

SIR: I am requested particularly by all our Indian chiefs, to acquaint your excellency that

the Americans have commenced hostilities with them two years ago, and have advanced some considerable distance in their country, and are now making daily progress. They say they sent a number of letters to your excellency by Mr. Arbuthnot, but have never received one answer, which makes them believe that he never delivered them, and will oblige them much if you will let them know whether he did or not. The purport of the letters was begging your excellency to be kind enough to send them down some gunpowder, muskets, balls, lead, cannon, &c., as they are now completely out of those articles; the Americans may march through the whole territory in one month, and, without arms, &c., they must surrender. Hillis Hajo, or Francis, the Indian chief, the one that was in England, tells me to let your excellency know that the Prince Regent told him that whenever he wanted ammunition, your excellency would supply him with as much as he wanted. They beg me to press upon your excellency's mind to send the above-mentioned articles down by the vessel that brings this to you, as she will sail for this place immediately, and let the Prince Regent know of their situation. Any letters that your excellency may send down, be good enough to direct to me, as they have great dependence in my writing. Any news that your excellency may have respecting them and America, you will be doing a great favor to let me know, that I may send among them.

There is now a very large body of Americans and Indians, who I expect will attack us every day, and God only knows how it will be decided; but I must only say this will be the last effort with us. There has been a body of Indians gone to meet them, and I have sent another party. I hope your excellency will be pleased to grant the favor they request. I have nothing further to add, but am, sir, with due respect, your obedient humble servant,

ROBERT C. AMBRISTER.

Question by the prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did.

Question by the prisoner. Were not the negroes alluded to, at Arbuthnot's store before I arrived?

Answer. No. You came with them.

PETER B. COOK, a witness on the part of the prosecution, being duly sworn, stated, that he never heard the prisoner give any orders to negroes or Indians; that the prisoner distributed Arbuthnot's goods, and also paint, to the negroes and Indians; also that some powder was brought from the vessel to Suwaney by the prisoner, and distributed among the negroes by Nero. Some time in March the prisoner took Arbuthnot's schooner, and, with an armed party of negroes, (twenty-four in number,) set out for St. Marks, for the purpose of taking Arbuthnot's goods at that place, and stated that he would compel the commandant to deliver them up. On hearing of the approach of the American army, the prisoner told the negroes it was useless to run; for, if they



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ran any further, they would be driven into the sea. The prisoner told the witness that he had been a lieutenant in the British army, under Colonel Nicholls. The prisoner was sent by Woodbine to Tampa to see about those negroes he had left there. The prisoner told the witness that he had written a letter to Governor Cameron for ammunition for the Indians some time in March; and also told the witness that he had a commission in the patriot army, under McGregor, and that he had expected a captaincy. The witness testified that the following letters, marked A, B, C, and D, and referred to in the specification to the 2d charge, were in the handwriting of the prisoner, and one marked E.

**NOTE.**—The letter marked A, is copied in a previous part of these proceedings.

## B.

*From Robert C. Ambrister to Maj. Edward Nicholls.*

SUWANEE, NEAR RIVER APPALACHICOLA.

DEAR SIR: Francis, and all the Indian chiefs, have requested me particularly to acquaint you that the Americans have commenced hostilities with them these two years past, and are making daily progress in their territory, and say they will proceed; that you are the only friend they have in that part of the world, and hope that you will exert yourself in their behalf, and ask for as much assistance as can be had; that the Americans are at the forks of the river Appalachicola; they have written a number of times to England and Providence, but have never received one answer; they expect the man never delivered the letters, but they have full hopes in my writing; they request you to make the Prince Regent acquainted with their deplorable situation; the Americans have been very cruel since they commenced, and I hope you will not lose a single moment in forwarding their views; they say they will be extremely happy to see you; nothing would give them greater pleasure than to see you out at this present time. If they should not see you, to send them out all news and directions, that they may be guided by it. There are about three hundred blacks at this place, and a few of our bluff people; they beg me to say they depend on your promises, and expect you are on the way out; they have stuck to the *cause*, and will always believe in the faith of you, and any directions you may give. Send to me at this place and I will do what I can.

And remain, my dear sir, most truly yours,

ROBERT C. AMBRISTER.

N. B. Francis says you must bring the horses when you come out, that you promised, and that his house has been burnt down, and burnt his uniform clothes.

R. A.

## C.

*From Robert C. Ambrister to Governor Cameron.*

MARCH 20, 1818.

SIR: I am requested particularly by the Indian chiefs to acquaint your excellency that the Americans have commenced hostilities with them a

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long time since, and have advanced some distance in their territory, and are still continuing to advance; that they (the chiefs of Florida) have sent repeatedly to your excellency, and have never received one answer; they suspect Mr. Arbuthnot has never delivered the papers to your excellency; they wish me to state to you that they are completely out of ammunition, muskets, &c., begging your excellency will be pleased to send them the articles above mentioned, with a few cannon, as the Americans build their boats so strong that their rifle balls cannot penetrate their sides. The captain of the vessel, who will come down again, I have given orders to make your excellency acquainted with the time the vessel will sail for this place. Your excellency will, I hope, be good enough to make the Prince Regent acquainted with their situation, and ask for assistance, which have pressed me very hard to press on your excellency's mind, and likewise to send them down what news may be respecting them and the country, which will be a great satisfaction to them. I have the honor to be, &c.

ROBERT C. AMBRISTER.

N. B. They beg your excellency will be as expeditious as possible; that your excellency is the only dependence they have, and whom the Prince Regent told them would give them every assistance that laid in your power.

R. C. A.

## D.

*From Robert C. Ambrister to Governor Cameron.*

SUWANEE, NEAR FORT ST. MARK'S,

March 20, 1818.

I am requested by Francis and all the Indian chiefs to acquaint your excellency that they are at war with the Americans, and have been some time back; that they are in great distress for want of ammunition, balls, arms, &c., and have wrote by Mr. Arbuthnot several times, but they suppose he never delivers them to your excellency. You will oblige them much to let them know whether he did or not.

I expect the Americans and Indians will attack us daily; I have sent a party of men to oppose them; they beg of me to press on your excellency's mind to lay the situation of the country before the Prince Regent and ask for assistance. All news respecting them, your excellency will do a favor to let us know by the first opportunity, that I may make them acquainted; I have given direction to the captain to let your excellency know when the vessel will sail for this place. I hope your excellency will be pleased to send them the ammunition; I expect if they do not procure some very shortly, that the Americans will march through the country. I have nothing further to add. I am, dear sir, &c.,

ROBERT C. AMBRISTER.

## E.

*From Robert C. Ambrister to Peter B. Cook.*

MOUTH OF THE RIVER, Tuesday 3 o'clock.

DEAR COOK: The boat arrived here about three o'clock on Thursday; the wind has been

*Defeat of the Seminole Indians, &c.*

ahead ever since I have been down; the rudder of the vessel is in a bad condition, but I will manage to have it done to-night; the wind, I am in hopes, will be fair in the morning, when I will get under weigh and make all possible despatch. I will make old Lewis pilot me safe. If these Indians don't conduct themselves straight, I would use rigorous means with them; beware of Mr. Jerry; I found him on board when I came; keep a good look out. I have sent two kegs of powder, and one bar of lead. Yours, &c.

R. C. A.

Question by the prisoner. Did you not frequently hear me say that I would have nothing to do with the Indians in exciting them to war with the United States?

Answer. I do not recollect.

Question by the prisoner. Are you acquainted with Lewis Phenix, and have you not heard him express ill-will against me in consequence of my wishing him to pilot me to St. Mark's?

Answer. I never did.

Question. Do you know of my sending troops at any time to fight against the United States, and have I not been constantly with you, so that you would have had an opportunity of knowing if there had been any sent by me?

Answer. I have not; they might have been sent without my knowledge.

JACOB HARMON, a witness on the part of the prosecution, being duly sworn, stated that, some time in the latter end of March, or first of April, the prisoner took possession of the schooner Chance, with an armed party of negroes, and stated his intentions of taking St. Mark's; on his way thither, going ashore, he learned from some Indians that Arbuthnot had gone on to St. Mark's, which induced him to return. The witness also stated that, while the prisoner was on board, he had complete command of the negroes who considered him as their captain. The prisoner took the cargo of the vessel up towards Suwanee, which consisted of, with other articles, nine kegs of powder, and five hundred pounds of lead.

The evidence on both sides being closed, the prisoner was allowed until five o'clock this evening to make his defence.

The time allowed the prisoner for the preparation of his defence having expired he was brought before the court, and made the defence marked M, which is attached to these proceedings.

The court was then cleared, and the proceedings read over by the recorder, when, after due deliberation on the testimony brought forward, the court find the prisoner, Robert C. Ambrister, guilty of so much of the specification to the first charge as follows, viz: "and did excite them to war with the United States by sending their warriors to meet and fight the American army, he being a subject of Great Britain, which Government was at peace and friendship with the United States and all her citizens;" but not guilty of the other part of the specification: guilty of the first charge; guilty of the specification of the second

charge, and guilty of the second charge; and do therefore sentence the prisoner, Robert C. Ambrister, *to suffer death by being shot*, two-thirds of the court concurring therein.

One of the members of the court requesting a reconsideration of his vote on the sentence, the sense of the court was taken thereon, and decided in the affirmative; when the vote was again taken, and the court sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The court adjourned *sine die*.

EDMUND P. GAINES,  
Major General, Pres't of the Court.  
J. M. GLASSELL, Recorder.

### DEFENCE M.

FORT ST. MARKS, April 28, 1818.

The United States of America vs. Robert Christy Ambrister.

Who being arraigned before a special court-martial upon the following charges, to wit:

1st. Aiding, abetting, and comforting the enemy; supplying them with the means of war; he being a subject of Great Britain at peace with the United States, and lately an officer in the British colonial marines.

CHARGE 2d. Sending and commanding the Lower Creek Indians in carrying on war against the United States.

To the first charge the prisoner at the bar pleaded not guilty, and as to the second charge he pleaded guilty, and justification. The prisoner at the bar feels grateful to this honorable court for their goodness in giving him a sufficient time to deliberate, and arrange his defence on the above charges. The prisoner at the bar here avails himself of the opportunity of stating to this court that, inasmuch as the testimony which was introduced in this case was very explicit, and went to every point the prisoner could wish, he has nothing further to offer in his defence, but puts himself upon the mercy of the honorable court.

ROBERT C. AMBRISTER.

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen's Office, camp 4 miles north of  
St. Mark's, April 29, 1818.

### GENERAL ORDERS.

At a special court-martial, commenced on the 26th instant at St. Mark's, and continued until the 28th, of which brevet Major General E. P. Gaines is president, was tried A. Arbuthnot on the following charges and specifications, viz:

CHARGE 1st. Exciting and stirring up the Creek Indians to war against the United States and her citizens; he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

CHARGE 2d. Acting as a spy, aiding, abetting, and comforting the enemy, and supplying them with the means of war.

CHARGE 3d. Exciting the Indians to murder

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and destroy William Hambly and Edward Doyle, confiscate their property, and causing their arrest with a view to their condemnation to death, and the seizure of their property, they being citizens of Spain, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians.

To which charges the prisoner pleaded not guilty. The court, after mature deliberation on the evidence adduced, find the prisoner, A. Arbuthnot, guilty of the first charge, and guilty of the second charge, leaving out the words "acting as a spy;" and, after mature reflection, sentence him, A. Arbuthnot, to be suspended by the neck until he is *dead*.

Was also tried Robert C. Ambrister on the following charges, viz:

CHARGE 1st. Aiding, abetting, and comforting the enemy, and supplying them with the means of war, he being a subject of Great Britain, (who are at peace with the United States,) and late an officer in the British colonial marines.

CHARGE 2d. Leading and commanding the Lower Creek Indians in carrying on a war against the United States. #

To which charges the prisoner pleaded as follows, viz: To the first charge not guilty; to the second charge guilty, and justification.

The court, on examination of evidence, and on mature deliberation, find the prisoner, Robert C. Ambrister, guilty of the first and second charges, and do therefore sentence him to suffer death by being *shot*. The members requesting a reconsideration of the vote on this sentence, and it being had, they sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The Commanding General approves the finding and sentence of the court in the case of A. Arbuthnot, and approves the finding and first sentence of the court in the case of Robert C. Ambrister, and disapproves the reconsideration of the sentence of the honorable court in this case. It appears from the evidence and pleading of the prisoner that he did lead and command, within the territory of Spain, (being a subject of Great Britain,) the Indians in war against the United States, those nations being at peace. It is an established principle of the laws of nations that any individual of a nation making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and pirate; this is the case of Robert C. Ambrister, clearly shown by the evidence adduced.

The Commanding General orders, that Brevet A. C. W. Fanning, of the corps of artillery, will have, between the hours of eight and nine o'clock, A. M., A. Arbuthnot suspended by the neck, with a rope, until he is *dead*, and Robert C. Ambrister to be shot to *death*, agreeably to the sentence of the court.

John James Arbuthnot will be furnished with a passage to Pensacola by the first vessel.

The special court, of which Brevet Major General E. P. Gaines is President, is dissolved.

By order of Major General Jackson.

ROBERT BUTLER, *Adj. Gen.*

ADJ'T AND INS. GEN'S OFFICE,  
*September 23, 1818.*

A true copy from the original papers on file in this office.

DEPARTMENT OF WAR, *Aug. 14, 1818.*

SIR: I enclose for your information a copy of the orders to General Gaines, growing out of the late decision of the President, relative to St. Mark's and Pensacola. [See letter to General Gaines of August 14, 1818.]

I was directed by the President to wait the reply of the Spanish Minister to Mr. Adams's letter to him, which, not being received until the day before yesterday has caused so great a delay as to render it necessary to send the orders direct to General Gaines, without passing them through you. I have, &c.

J. C. CALHOUN.

Major Gen. ANDREW JACKSON.

*Nashville Tennessee.*

The following depositions and documents accompanied Mr. Lacock's report made to the Senate on the 24th of February, 1818:

No. 1.

DEPARTMENT OF WAR, *Feb. 10, 1819.*

SIR: Agreeably to the request made in your letter of the 8th instant, I now transmit an extract of General Jackson's letter of the 10th of August last, and a copy of General Jackson's order to General Gaines, of the 7th of last August, in relation to St. Augustine; a copy of the order to General Gaines, of the 1st of September; and an extract of the answer to General Jackson's letter of the 10th of August, 1818; which comprehend all the information required by the committee.

I have the honor to be, &c.

J. C. CALHOUN.

Hon. ABNER LACOCK, *Chairman, &c.*

No. 2.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, January 12, 1818.*

SIR: I have the honor to acknowledge the receipt of your order of the 26th ultimo, which reached me last night; its contents are duly noted, and will be promptly attended to.

I have received no late advices from General Gaines, although I have for some time expected the return of the express sent to him on the 24th of November last. Taking into view the strength of the Seminoles and their adherents, as reported to you by General Gaines, and the aggregate of his strength, regulars and militia, amounting to but one thousand eight hundred men, which cannot possibly afford a like number of effectives; considering, likewise, that the greater portion of

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his forces are draughted militia, from Georgia, who may apply for their discharge at the expiration of three months from the time they were first mustered, and who may be disposed to claim this right, and abandon the campaign, about the time I could reach Fort Scott, I have deemed it both prudent and advisable to call from the west end of the State of Tennessee for one thousand volunteer mounted gun-men, to serve during the campaign. With this force, in conjunction with the regular troops, I can act promptly, and, with the smiles of Heaven, successfully, against any force that can be concentrated by the Seminoles and their auxiliaries. Viewing, however, the lives of our citizens as too precious to be risked in a contest with savages, with the odds of two to one, unless where real necessity demands the exposure, I have therefore written to the Governor of Georgia to continue in the field the one thousand men required by General Gaines.

The result of the appeal I have made to the patriotism of those brave men in West Tennessee, who have so often followed me to the field of danger, will be known by the 19th instant, and I hope to leave this for Fort Scott on the 22d. Of my movements, and success in raising the mounted volunteers, you shall be advised.

It may appear to the Government, on the first view, that mounted men are the most expensive; but when we consider the rapidity of their movements, the amount of quartermaster's expenditures for pack-horses, baggage-wagons, and other means of transport indispensable to footmen, in this instance saved, mounted gun-men, as auxiliaries in such a campaign as the one contemplated, will be found to save both blood and treasure to the United States. The volunteers that have been invited to the field are of tried materials, and such as can be relied on in the day of danger and trial. With respect, &c.

ANDREW JACKSON,

*Major General commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

I feel myself much at a loss for correct topographical information of the country occupied by the Seminole Indians, and particularly of that portion which may possibly become the seat of war. Should there be any maps, plans, or charts, of the section of country alluded to, in the secret bureau of the War Department, you will oblige me by having a copy transmitted to Fort Scott as early as practicable.

A. J.

No. 3.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, January 13, 1818.*

SIR: Being advised that the assistant deputy quartermaster general of General Gaines's brigade has resigned, and being unadvised as to quartermaster's funds within the seventh department, I have to request that necessary funds be forwarded to Quartermaster General Gibson, at Fort Scott, whom I have ordered to meet me at that place without loss of time.

Should the one thousand volunteer mounted gun-men attend to my appeal to their patriotism, I shall send on a confidential agent to Georgia, to have the necessary supplies for them procured and forwarded by the quartermaster, if any there, to Fort Gaines; and, if none, by the agent sent, with instructions to draw on Quartermaster General Gibson for the amount of his purchases; this is done to facilitate the march of the volunteers called for. I need not observe that, without quartermaster's funds, an army cannot be wielded either with promptitude or effect. Promptitude in the present campaign will be a great saving to the United States, both in character and purse.

I have the honor to be, &c.

ANDREW JACKSON,

*Major General Commanding.*

Hon. JOHN C. CALHOUN, *Sec'y of War.*

No. 5.

*Extract of a letter from Major General Jackson to  
Brevet Major General Gaines, dated*

*NASHVILLE, August 7, 1818.*

I am happy to find that the notorious Micco de Cozey is at length destroyed. The distress of the Indians for provisions I expected. Your providing for their wants meets my entire approbation; it will meet the entire approbation of the Government, as it corresponds with the usual humanity extended to the suffering Indians.

I have noted with attention Major Twigg's letter, marked No. 5. I contemplated that the agents of Spain, or the officers of Fort St. Augustine, would excite the Indians to hostility, and furnish them with the means of war. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to, take, and garrison, Fort St. Augustine with American troops, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba; as, in your judgment, under existing circumstances, you may think best.

Let it be remembered, that the proceedings carried on by me, or this order, are not on the ground that we are at war with Spain. It is on the ground of self-preservation, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontier; hence the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war. This evidence being obtained, you will (if your force is sufficient) permit nothing to prevent you from reducing Fort St. Augustine, except a positive order from the Department of War.

Orders, some time since, have been given to the officer of the ordnance commanding at Charleston, to have in readiness a complete battering train, the number and caliber of the guns pointed out. I have no doubt you will find them in readiness.

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I enclose you the report of Captain Henley of the naval force on that station. You will open a correspondence with Commandant A. G. Dallas, to insure his co-operation, provided it should be required. I trust, before this reaches you, you will have destroyed the settlement collected at Suwanee; this can easily be done by a *coup de main*, provided secrecy of your movements be observed, and a great expedition of march used. Without expedition of movement, and great caution, you will be discovered, and the enemy will flee, or endeavor to ambuscade you; both of which ought to be guarded against.

Have a careful eye to your supplies on hand, that, before they are consumed, others may be ordered and reach you. Without necessary supplies, an army cannot operate with effect. The late scarcity ought to teach us a lesson on this head, never to be forgotten. I therefore expect that no scarcity will happen at any place, post, or garrison, intrusted to your care. I shall expect to hear from you shortly; and that you and your brigade may be successful in all your operations, and cover yourselves with glory, is my heartfelt wish.

I am, very respectfully, yours, &c.

ANDREW JACKSON,  
*Major General commanding.*

No. 6.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, August 10, 1818.*

Captain Gadsden will likewise deliver you his report, made in pursuance of my order, accompanied with the plans of the fortifications thought necessary for the defence of the Floridas, in connexion with the line of defence on our Southern frontier. This was done under the belief that Government will never jeopardize the safety of the Union, or the security of our frontier, by surrendering those posts, unless upon a sure guaranty, agreeably to the stipulations of the articles of capitulation, that will insure permanent peace, tranquillity, and security, to our Southern frontier. It is believed that Spain can never furnish this guaranty. As long as there are Indians in Florida, and it possessed by Spain, they will be excited to war and the indiscriminate murder of our citizens, by foreign agents and Spanish officers. The conduct of Spain for the last six years fully proves this. It was under the belief that the Floridas would be held, that my orders to make the report were given to Captain Gadsden. To this I refer you; its perusal will show you how important it is, not only to the defence and security of the frontier, but to the whole United States. It points to our vulnerable points, and shows our country can and was intended to be invaded, during the last war, from this quarter; and that the attempt would have been made, had not the Creek Indians been subdued previous to the arrival of the British troops; and, afterwards, their attempt to gain possession of Mobile bay was frustrated by the repulse they met with at Fort Bowyer. If possession is given of

the points now occupied by our troops, and a war ensues, an attempt will no doubt be made to penetrate our country by the Appalachicola, and, by the aid of the Indians, to reach the Mississippi at or above the Chickasaw Bluffs. Should this be done with a formidable force, in our unprepared state, it is highly probable that the enemy might reach the banks of the Mississippi. Occupying these points will prevent the danger of such an occurrence; surrender them, and I would not, without a much stronger force, hold myself responsible for the safety of my division. But with those points fortified as recommended, and with an effective force of five thousand men, I pledge my life upon defending the country, from St. Mary's to the Barrataire, against all the machinations and attacks of the *Holy Alliance* and combined Europe.

By Captain Gadsden you will receive some letters, lately enclosed to me, detailing the information that the Spaniards at Fort St. Augustine were again exciting the Indians to war against us, and a copy of my order to General Gaines upon this subject. It is what I expected, and proves the necessity and sound policy of not only holding the posts which we are now in possession of, but likewise of our possessing ourselves of Fort St. Augustine. This alone can insure peace and security on our Southern frontier.

It is alone by a just and bold course of conduct that we can expect to obtain and insure respect from Europe, and not by a timid, temporizing policy. The first commands admiration and esteem, the latter contempt. But, from the composition of the present Administration, I can never suppose that they will abandon rights, or assume a timid and temporizing course of policy. I therefore conclude that the posts will never be surrendered, unless upon the terms agreed on in the capitulation, and then it guarantied that those terms will be punctually fulfilled; particularly when it is recollected that, unless this is done, our frontier will be exposed to all the scenes of blood and massacre heretofore experienced; and to regain them will cost us much blood and treasure, in the event of a war. The security of the Western States renders it necessary that they should be held: the voice of the people will demand it. But upon this, as well as every other subject, I refer you to Captain Gadsden.

I have the honor to be, &c.

ANDREW JACKSON,  
*Major General commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

No. 7.

DEPARTMENT OF WAR, *Sept 1, 1818.*

SIR: General Jackson has transmitted to this Department a copy of his letter to you of the 7th ultimo. It is to be presumed that his orders in relation to St. Augustine were given before he was apprized of the decision of the President in relation to St. Mark's and Pensacola; as the principle on which that decision was made would equally extend to the case of St. Augustine. You

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will accordingly not carry that part of General Jackson's order into execution, except to collect with care the evidence of such facts as go to prove any countenance or assistance from the Spanish authority in St. Augustine to the hostile Indians; and should you ascertain that they have afforded any, you will report the facts, properly supported by evidence, to this Department. You will also report the facts on which you ordered the issue of rations to the Indians, and the extent of the issue—I refer to the issue which is alluded to in General Jackson's letter to you of the 7th ultimo, as the Department has not yet received any information on the subject. I have, &c.

JOHN C. CALHOUN.

Gen. E. P. GAINES.

No. 8.

*Extract of a letter from J. C. Calhoun, Secretary of War, to Major General Andrew Jackson, dated*

SEPTEMBER 8, 1818.

I enclose a copy of my orders of the 14th ultimo to General Gaines for your information. I concur in the view which you have taken in relation to the importance of Florida to the effectual peace and security of our Southern frontier; and such, I believe, is the opinion of every member of the Administration. In fact, the grounds assumed are very far from being feeble. St. Mark's will be retained until Spain shall be ready to garrison it with a sufficient force; and Fort Gadsden, and any other position in East or West Florida, within the Indian country, which may be deemed eligible, will be retained so long as there is any danger; which, it is hoped, will afford the desired security. We ought, it is true, never to resort to timid measures to avoid war; but it appears to me that a certain degree of caution (not from the fear of the Holy Alliance) ought, at this time, to mark our policy. A war with Spain, were it to continue with her alone, and were there no great neutral Powers to avail themselves of the opportunity of embarrassing us, would be nothing; but such a war would not continue long without involving other parties, and it certainly would, in a few years, be an English war. In such a war I would not fear for the fate of our country; but, certainly, if it can be prudently and honorably avoided for the present, it ought to be. We want time—time to grow, to perfect our fortifications, to enlarge our navy, to replenish our depots, and to pay our debts. I speak to you frankly, knowing your zeal for our country, with whose glory yours is now identified. No one who has examined my political course will, I am sure, think that these opinions are influenced by timid councils.

[NOTE. The order of the 14th of August, referred to in the above extract, has been already communicated to Congress.]

No. 9.

FORT CRAWFORD, May 19, 1818.

DEAR SIR: Proceeding to Georgia for the purpose of bringing my family to this Territory, and

desirous to provide for the safety of the inhabitants on the frontiers during my absence, I have sought an interview with the officer in command at this place. At Camp Montgomery I learned that you would probably reach this place in a few days, and indulged the hope of seeing you. An interview with you would have been to me a source of much pleasure, and I regret that my arrangements will not permit me to await your arrival.

The Indians commenced their murderous incursions on the frontier settlements in January last, when two men were killed in this neighborhood. No events occurred afterwards to excite apprehension until the 14th of March, when a house on the Federal Road, near Poplar Spring, was attacked, and eight persons killed. This intelligence reached me at Claiborne, from whence a detachment of mounted riflemen was immediately ordered to the place, for one month's service. A few days afterwards five men, while travelling the road, were fired at, and three killed; from whom fifteen hundred or two thousand dollars were taken. The people, for the most part, were flying for safety in every direction, and all communication by mail, or otherwise, with Georgia, wholly suspended. The Indians were known to be still in that quarter. In this state of things, three posts were established by my order, at which there are in the whole about one hundred men, who have instructions to scour the woods from day to day. A fortnight since they found a camp; but, on their approach, the enemy fled to a contiguous swamp, from whence they fired, and killed one man. The commanding officer informs me that he thinks the number of Indians now in the neighborhood considerable. I should have mentioned that, in April, a house, within fifteen or twenty miles of Claiborne, was attacked; the husband killed, and wife and two daughters wounded. Thirty dollars, a quantity of bacon, and every article which could be conveyed away, taken and carried to Pensacola, where I believe the murderers might still be found.

I yesterday learned that one Indian was killed, and another wounded, near the Poplar Spring. This detail of events however was probably unnecessary, as you will receive from Major Young every intelligence upon the subject. My principal object is to state that, in my efforts to protect the people over whom I preside, the territorial treasury being destitute of funds, has afforded me no supplies whatsoever; nor has it been in the power of the commanding officer here to render the aid which he has uniformly manifested the best disposition to afford. I am desirous that the troops should be considered as in the service of the United States, and the accounts adjusted when their term of service expires. One company rendezvoused at Poplar Spring, for three months' service, on the 10th April, and a detachment of twenty-five at Sepulger lately, for the same term of service. The expenditures incurred have been considerable, and altogether beyond my means of paying. You will readily perceive how unpleasant has been my situation

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without the means of affording the protection necessary to keep the inhabitants at their homes. The regular force in this quarter has been insufficient for the defence of the country; the militia I have not had time to organize; and, above all, not a dollar in the treasury. My views of the necessity of forwarding men and money to this section of the country have been repeatedly stated to Colonel Trimble, but I apprehend it has not been in his power to meet them.

Having endeavored in vain, with my limited resources, to arrest the enemy after their successive murders; and being satisfied that they sought refuge in Florida, I determined to raise a volunteer force, and order them to attack the hostile Indians without regard to our boundary. A part of the force is now under the command of Major Young, and Captain Stull is in possession of my order. Had I been furnished with funds, the enemy would have been driven from that retreat long before this time—persuaded as I am that it is the only effectual method of affording security to this territory.

I have this moment received intelligence which leaves no doubt of your approach to this quarter; and I shall now leave the Territory perfectly satisfied that the people will not suffer by my absence. Mr. Henry Hitchcock is appointed Territorial Secretary, and will act as Governor after I set out from Fort Jackson, which will be on the 26th or 27th of this month. I may however be detained a few days longer in arranging with the Big Warrior the reception of a party of Indians who have sued for peace, and delivered themselves to Major Young. This they did so soon as the Major convinced them, by a well-timed and well-executed expedition, that they would no longer be permitted to murder our citizens, and find refuge in the Spanish territory.

There are at this place forty volunteers, and the same number of militia at Camp Montgomery. Should you need any additional aid from the Territory it would be promptly furnished, should you notify me at Fort Jackson before my departure.

I enclose to you letters I have received from the commanding officer of the militia near Poplar Spring, which will present to you the state of things in that quarter.

Excuse this hasty scrawl, and accept the assurances of my regard and esteem.

WILLIAM W. BIBB.

No. 10.

PAYMASTER GENERAL'S OFFICE,  
City of Washington, Feb. 20, 1819.

SIR: In answer to your letter of the 17th of the present month I have the honor to state:

1st. That "the numbers and grades of the officers who commanded the detachment of Indians employed under McIntosh, and the whole number of Indians," appear, from the accounts of the agent who paid them, to have been—

One Brigadier General.

Two Colonels.

Two Lieutenant Colonels.

Two Majors.

One Assistant Adjutant General.

Four Assistant Commissaries.

Twenty-eight Captains.

Twenty-eight First Lieutenants.

Twenty-eight Second Lieutenants.

One thousand five hundred and seventeen rank and file, (or other warriors.)

2d. That "the number and grades of the officers, who commanded the Tennessee and Kentucky volunteers," appear, from the rolls which mustered them into service, to have been—

One Assistant Adjutant General.

One Assistant Inspector General.

One Assistant Deputy Quartermaster General.

One Chaplain.

One Foragemaster.

One Assistant Foragemaster.

One Judge Advocate.

Two Colonels.

Four Lieutenant Colonels.

Four Majors.

Four Adjutants, (regimental.)

Two Quartermasters, (regimental.)

Two Surgeons, (regimental.)

Four Surgeon's mates, (regimental.)

Four Sergeant majors, (regimental.)

Four Quartermaster sergeants.

Twenty Captains.

Twenty First Lieutenants.

Eighteen Second Lieutenants.

Eleven Third Lieutenants.

Seventeen Cornets.

Of whom one Captain and one First Lieutenant appear to have belonged to Kentucky; the others to Tennessee.

3d. That "the number and grades of the officers who commanded (or served with) the two companies of rangers," under Captains Boyle and McGirt, appear, from a communication of the paymaster of the 4th regiment of infantry, dated the 23d of September, 1818, to have been—

Two Captains.

Two First Lieutenants.

Two Second Lieutenants.

One Surgeon's mate.

I am, very respectfully, &c.

NATH'L FRYE, JR.,

Chief Clerk.

HON. ABNER LACOCK,

Chairman of Committee, &c.

No. 11.

PAYMASTER GENERAL'S OFFICE,  
City of Washington, Feb. 23, 1819.

SIR: Your letter of yesterday's date is now before me; and, with reference to my note of the 20th instant, I have to state that "the whole number of men (rank and file) employed as volunteers from Tennessee and Kentucky," appears, from the muster-rolls, to have been one thousand one hundred and sixty-three; the number employed in Captain Boyle's and Captain McGirt's companies of rangers one hundred and forty.

*Defeat of the Seminole Indians, &c.*

With sentiments of much respect, I am, sir,  
your most obedient,

NATH'L FRYE, JR.,  
Chief Clerk.

HON. ABNER LACOCK,  
Chairman of Committee, &c.

No. 12.

WASHINGTON CITY, Feb. 5, 1819.

SIR: I have the honor to acknowledge the receipt of your letter of the present date, enclosing a communication from the chairman of the committee of the Senate, requesting of you a copy of the letter addressed by Major White Young to Governor Mazot, on the 27th April, 1818. Not having received a report from Major Young relative to the correspondence with Governor Mazot, or his attack on the hostile Indians in the vicinity of Pensacola, the only information I possess on the subject is contained in the letter of Governor Bibb, dated on the 19th of May, 1818, to which I beg leave to refer to you.

On my return from Suwanee to St. Mark's, I was informed (through the medium of Mr. Hamblly) by the captain of a vessel direct from Pensacola, that a number of hostile Indians had assembled at that place. On interrogating the captain, he reluctantly stated that, at the time of his sailing, there were in Pensacola four hundred and fifty or five hundred Indians; that they had been fed and furnished with munitions of war, and were committing depredations on the persons and property of the citizens on the frontiers of Alabama, and also on the subjects of Spain. After receiving this information I informed you, in my letter dated at St. Mark's, on the 26th April, that I should leave that place for Fort Gadsden in two or three days, and, after making all necessary arrangements for the security of the position occupied, and detaching a force to scour the country west of the Appalachicola, I should proceed direct to Nashville. I then ordered Captain Sands to Mobile, to prepare and hold in readiness a train of artillery, should circumstances arising out of facts disclosed render its use in the field necessary. On this occasion, as on all others, I thought it my duty to be prepared fully to execute my orders in putting an end to the conflict.

On my arrival at Fort Gadsden my quartermaster general, Colonel George Gibson, who was charged with the defence of that post, handed me several letters, brought from Fort Montgomery by Major Hogan, from respectable citizens, confirming the report made by the captain of the schooner while at St. Mark's, and detailing the murder of eighteen of our citizens on the Sepulger, and the destruction of a family near Fort Claiborne. Major Hogan also confirmed this information, and added that the citizens at Montgomery were fortifying themselves. Similar information was received from two gentlemen who arrived in a vessel laden with sutler's stores for the troops at Fort Gadsden, but whose names are not now recollected, and by the captains of the sloop Hector and barge Peacock, direct from Mobile. In addition to the foregoing I was shown

a letter (confidentially written) from a person of high respectability in Pensacola, detailing the facts as stated by the captain of the schooner at St. Mark's.

This information, corroborated by so many persons, determined me to go in person to Pensacola; and I ordered Colonel Gibson forthwith to Mobile, with instructions to give every facility to Captain Sands in having the artillery secretly moved to Fort Montgomery, there to await my orders; and immediately organized a force sufficient for the execution of my orders, under date of 26th December, 1817.

After crossing the Choctawhatchy, I despatched an Indian guide with a soldier express to Fort Crawford, with orders to Colonel Gibson and Captain Sands, at Fort Montgomery, to move on the artillery, and form a junction with me after I crossed the Escambia river; which order was promptly executed. On my reaching the Escambia I was met by Captain Boyle, express from Governor Bibb, with the letter of the 19th of May above mentioned, and, on reaching the west bank, received information that Holmes and his warriors were then in Pensacola, for which place I immediately marched. For my proceedings thereafter I refer you to my detailed report.

Should you wish information on any other points growing out of my military operations during that campaign, it will afford me much pleasure to give it to you.

I am sir, yours, &c.

ANDREW JACKSON,  
Major General commanding.

The Hon. J. C. CALHOUN.

No. 13.

FORT COVINGTON, NEAR BALTIMORE,  
February 5, 1819.

SIR: Yesterday I had the honor to receive your letter of the 3d instant, on the subject of the late war with the Seminole Indians, and, in answer to your interrogatories, on all of which I am unable to give you the information required. I was however, with the troops at Fort Scott, under the command of General Gaines, at the commencement of hostilities. I was never ordered with any detachment to remove the Indians from the lands of the United States. Brevet Major Twiggs, of the 7th regiment United States' infantry, commanded the first detachment that visited the Indian village called Fowltown, situated on the east side of Flint river, by the order of the General; the nature of his orders I know not, neither can I say who fired the first gun. I understood at the time, that, on the approach of our troops, the Indians fled from their houses to an adjacent swamp; they were fired on, and two warriors and, unfortunately, one woman were killed; there was one prisoner taken by the detachment, on its march to Fowltown, and who was afterwards confined as a prisoner at Fort Scott. This detachment brought, on their return, three or four Indian horses.

The second detachment that visited the village



*Defeat of the Seminole Indians, &c.*

of Fowltown, was placed under the command of Lieutenant Colonel Arbuckle, of the 7th infantry, who, on a near approach, detached me with a command to advance on the village by a different route from that which he took; my orders from him were to take prisoners, if possible, but if an attempt to escape was made, to fire; and to examine all the buildings for corn. We were, however, discovered when within two hundred yards, and the Indians took to flight, giving the war whoop, and firing alarm guns. Corn, cattle, and other provisions, I have no hesitation in saying, was the object of this visit. We had one or two wagons with the detachment, which were loading with corn from the cribs of the Indians, when an attack was commenced by them, in which we had one man killed; as the Indians fought in the edge of the swamp, their loss was not ascertained, otherwise than by their own acknowledgment, which was afterwards said to be five or six warriors killed. We brought off all the corn which we conveniently could, and, perhaps, fifteen or eighteen head of cattle, and a few horses. Previous to our return to Fort Scott, the detachment was halted on the Flint river, three miles from Fowltown, and twelve from Fort Scott, where they remained four or five days in building a small picket work, called Fort Hughes. The provisions thus taken was just sufficient for the support of the troops during their absence from Fort Scott.

The third and last visit paid the village by our troops, was during the absence of General Gaines, who was at Amelia Island. This detachment was also commanded by Lieutenant Colonel Arbuckle, and, on our arrival, finding the place entirely abandoned by the Indians, it was destroyed by fire.

The horses taken by the detachment under Major Twiggs, as well as those taken by that under the command of Lieutenant Colonel Arbuckle, were considered of no value, but were ordered by the General to be turned into the quartermaster's hands. I afterwards saw some of them in his possession; others were claimed by the friendly Indians as their property, which were given up to them by the General's order. I believe, sir, that this is all the information which it is in my power to give on the subject that you have requested. I am, sir, &c.

JOHN N. MCINTOSH,  
*Captain 4th regt. U. S. Inf.*

The Hon. A. LACOCK.

No. 14.

EXECUTIVE DEPARTMENT,  
*Milledgeville, Ga. Feb. 6, 1817.*

SIR: I understand that the 4th regiment of the United States' infantry, which, for some time past, has been stationed on the frontier of this State, near the junction of the Flint and Chatahoochee rivers, is ordered to Fort Montgomery, on the waters of Mobile, and I have not heard of any other troops being ordered to supply their place. By this movement, not only the frontier of

Georgia is left without defence, but the restless and dissatisfied part of the Creeks, who are concentrated within the Spanish line, and at no great distance from the post (Camp Crawford) lately occupied by the 4th regiment, under Lieutenant Colonel Clinch, will be without any check, and I have no doubt will indulge their propensity for mischief, by acts of murder or rapine, upon defenceless travellers and frontier settlers. It is a fact well known to Lieutenant Colonel Clinch, and to every officer with him at Camp Crawford, that nothing has kept those Seminole Indians, who have been joined by the most inveterate of the hostile fellows from the upper towns in check, but the presence of the troops; and, if they are removed, some serious consequences are to be apprehended. Besides, it is very evident that, by the removal of the troops from Camp Crawford and the neighboring country, that portion of the territory acquired by Jackson's treaty, as it is usually called, lying east of the Chatahoochee, and which, of course, falls to Georgia, will be abandoned to the Indians.

Against measures which, in my judgment, will produce these results, it is my duty, as chief magistrate of Georgia, to protest. I am very far, however, from believing that it is the intention of the President, with knowledge of the fact, to leave Georgia, as a frontier State, on the Indians and the Spanish provinces of Florida, unprotected; and that if the removal of the troops, under Lieutenant Colonel Clinch has been by him deemed indispensable, he will order their place to be supplied by a competent force.

I have to request that the substance of this letter may be communicated to the President, and that his determination thereon may be transmitted to the Executive of Georgia, with as little delay as possible. I am, sir, &c.

D. B. MITCHELL.

Hon. the SECRETARY OF WAR.

No. 15.

EXECUTIVE DEPARTMENT, GEORGIA,  
*Milledgeville, Feb. 5, 1817.*

SIR: Understanding that you are thus far on your way to Fort Montgomery, I avail myself of the present opportunity to communicate some facts, in the expectation that you will have it in your power, if your judgment approve, to adopt the measures I am about to propose.

You, no doubt, have already been informed that the notorious Woodbine has recently made his appearance again at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostility against this country; and that Woodbine himself has gone in an armed vessel to some part of the West Indies for supplies. Connected with this fact is another, which may serve as an intimation of the future conduct of these people, when once in possession of the supplies, which it is said they expect on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered

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the frontier of Wayne county, and stole two horses and some cattle. They were pursued by some of the inhabitants, who peaceably demanded a restoration of the stolen property, and, instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without firing a shot; one of the whites was mortally wounded.

Before this last circumstance came to my knowledge, I had addressed the acting Secretary of War, and desired the contents of my letter to be communicated to the President, in which I represented the evil consequences that were likely to result to Georgia, in particular, by the removal of the 4th regiment from Camp Crawford, without their place was supplied by an adequate force from some other quarter; and requested the order for the removal of that regiment might be countermanded, or their place supplied. To this communication there has not yet been time to receive an answer. One object of my present address is to know if you cannot suspend the march of the 4th regiment until I can hear from the War Department, if you do not feel authorized or disposed to order them back to their former station at Camp Crawford. Another object of the present address grows out of the following fact: some of our people have gone over the Ockmulgee, and settled between that river and the line run under the late treaty with the Creeks, on or near Goose creek, of which the Indians complain. I have appointed an agent to go and order them off, and bring me the names of all such as refuse to move from the Indian land. I am doubtful, from the character of those intruders, that they will not remove without force is used to compel them; and it is doubtful whether I can legally apply that force, and the United States can. I have to request, if consistent with your duty, or the orders of the General Government, that you will order a detachment of troops to proceed to the spot, and remove those intruders. I am unwilling to give the Indians any just cause of complaint against us, and the more so, because I am determined, as long as I hold the station I now occupy, never to permit any aggression on their part to pass with impunity. I hold it a good rule, however, "to do as I would be done by," and am desirous of conforming to this rule in the present instance. I am, sir, yours, &c.

D. B. MITCHELL.

Major Gen. EDMUND P. GAINES.

No. 16.

Having been summoned to attend a committee of the honorable the Senate of the United States, to give evidence touching the Seminole war, I did attend accordingly, and, after a verbal statement to, and examination by, the committee, the following questions were asked me, with a request that I would answer in writing:

First, as to "the origin of the Seminole war, and the Fowltown affair."

It is, no doubt, within the knowledge of the honorable the committee, that, during the late war with the British and Creeks, posts were es-

tablished and occupied on the Appalachiecola by British officers and agents, and a considerable force there organized for the purpose of annoying the Southern frontier of the United States. It is also known that the hostile Indians of the Creek war, who had not embraced the terms of peace proposed by General Pinckney, and finally settled by the treaty of Fort Jackson, had taken shelter in the Floridas. From their resentment, and the motley crew collected by Nicholls, much mischief was to be apprehended by the inhabitants on the frontier of Georgia; and the post of Fort Scott, situate in the fork of the Flint and Chatahoochee rivers, and near their junction, was established and occupied by a considerable force of United States troops, for the protection of that frontier; and the same troops, with the aid of some naval force which ascended the Appalachiecola, destroyed a fort about sixty miles below, built by Colonel Nicholls, occupied and defended by negroes. The blowing up of this fort, with its negro garrison, (for, except a few Choctaw Indians, who were taken, it is believed that no other Indians were in the fort,) had a salutary influence in restraining the fugitives from the Creek war, and those under the influence of Nicholls and his partisans. I say the fugitives from the Creek war and the partisans of Nicholls, because it is well understood that the Seminoles took no part in the Creek war, unless the receipt of goods, &c. from Nicholls or his sub-agents be considered as proof of this fact; but the truth is, they will receive presents from any party, without any intention of adopting his projects; and such, I have no doubt, was the case with the Seminoles upon this occasion. The troops occupying Fort Scott were, however, soon after removed, and the post abandoned, or so nearly so, that it was in the power of the Indians at any time, to have destroyed it. Filling, at that time, the Executive chair of Georgia, I addressed the then Secretary of War on the subject of the removal of the troops, pointing out some of the evils which were likely to result, and urging the necessity of the re-occupation of the post by a respectable force. To this communication an answer was received, by which I was informed that, although it was the intention of the Government to concentrate a respectable force further to the west, yet it never was contemplated to leave the frontier of Georgia exposed.

The peace of the frontier of Georgia has always been exposed and disturbed, more or less, by acts of violence, committed as well by the whites as the Indians; and a spirit of retaliation has mutually prevailed. These petty acts of aggression were increased and multiplied by a set of lawless and abandoned characters, who had taken refuge on both sides of the St. Mary's river, living principally by plunder. I believe the first outrage committed on the frontier of Georgia, after the treaty of Fort Jackson, was by these banditti, who plundered a party of the Seminole Indians, on their way to Georgia for the purpose of trade, and killed one of them. This produced retaliation on the part of the Indians, and hence

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the killing of Mrs. Garret and her child. The evidence of these plunderings and murders is on the files of the Executive of Georgia.

Early in March, 1817, I resigned the Government of Georgia, and accepted my present appointment; and, in July, of the same year, called a general meeting of the Creek nation, at Fort Hawkins. At this meeting I endeavored to impress upon the minds of the Indians the necessity, on their part, of preserving peace; that many of the people of the lower towns had been led astray by evil counsel, had received presents from the British agent, Colonel Nicholls; and although it was acknowledged that they had not taken an active part with the Red Sticks in the Creek war, yet their conduct had made them, in some measure, obnoxious to the friendly part of their own nation, and to the United States; and that it was the duty of the friendly chiefs to reclaim those people, and restrain the restless spirits among them, whose conduct might eventually, if not checked in time, bring them into much trouble, if not utter ruin; assuring them, at the same time, that the United States would punctually fulfil all their engagements with them, of which I had then given them substantial proof; and that all, except murderers, who should return to their duty, and renew their friendly relations with the nation, should receive protection and forgiveness.

I state these particulars on account of their connexion with what immediately follows: About the last of August of the same year, say something more than one month after the meeting at Fort Hawkins, I received a letter from Major Twiggs, then at Fort Scott, dated the 4th of that month, written, as he says, at the request of the chiefs of three towns near that place, expressive of their willingness to agree to the talk delivered by me, in July, at Fort Hawkins. A copy of Major Twigg's letter, and the memorandum enclosed therein, is herewith exhibited. Of the three towns referred to, the Fowltown was one; but, before I had an opportunity of sending for those chiefs, or of taking any measures for meeting their proposition, General Gaines arrived with a detachment of troops from the West, sent for the chief of Fowltown, and for his contumacy in not immediately appearing before him, the town was attacked and destroyed by the troops of the United States, by order of General Gaines. This fact was, I conceive, the immediate cause of the Seminole war. The reasons assigned for the destruction of Fowltown, in addition to the contumacy of the chief, were, the refusal of the chiefs of the Seminoles to give up some murderers, and the hostile aspect which they had assumed. Of this demand and refusal I know nothing more than what has been published; but truth compels me to say, that, before the attack on Fowltown, aggressions of this kind were as frequent on the part of the whites as on the part of the Indians, the evidence of which can be furnished from the files of the Executive of Georgia, to which I have before referred.

The second question put by the committee is,

"the organization of McIntosh's brigade, how and by whom done, with a roster of the field and other officers; with the notice thereof given to the War Department; what answer, if any, was received?"

At the meeting at Fort Hawkins, in July, 1817, Colonel Brearly, of the 7th infantry, attended, and stated to me that he was directed by General Gaines to apply for the assistance or services of General McIntosh and five or six hundred of his friendly warriors, in case he should go against the Seminoles. I immediately communicated the application to the chiefs in council, and received for answer that they would leave that business to McIntosh and myself. I then told McIntosh that he must hold himself and his warriors in readiness to join the United States' troops whenever ordered. This he readily agreed to. Whether I received a written communication from General Gaines upon this subject or not, I do not recollect; but I was told by some one that he had written to McIntosh for his assistance. However, before a call was made on the warriors to take the field, I received a letter from the then acting Secretary of War, communicating the fact to me that General Gaines was prohibited from crossing the Spanish line, without a special order from that Department. This I considered as notice, or rather as an order, to me not to permit the friendly warriors to cross the line under sanction of, or in the service of, the United States. This letter, I think I received some time in November; and a meeting of the chiefs having been called by the Little Prince, to take into consideration the affair of Fowltown, I informed them of the determination of the Government in this particular, and desired them to remain quiet until they heard from me again. This meeting was held in December, at the Broken Arrow, on the Chatahoochee; and, on my return to the Agency, I fell in with General Gaines to whom I communicated the contents of the Acting Secretary's letter and the course I had taken with the Indians. The General then informed me that he had received the order spoken of, but that, from the representations he had made, he did not doubt but that the prohibition to crossing the Spanish line would be removed. I had appointed another meeting with the Indians, to take place at the Agency, at the end of twenty-five days, expecting to hear from the War Department in the meantime; but, upon the subject of crossing the Spanish line, I received no immediate answer. A meeting was accordingly held at the Agency, which commenced on the 9th of January, 1818, at which Colonel Brearly attended; and, although he brought no communication in writing from General Gaines, yet he informed me that he knew the prohibition to crossing the Spanish line had been withdrawn, and that General Gaines had ordered him to muster as many of the friendly Indians into service as were willing to engage. Arrangements were immediately made, and a day assigned, for enrolling the friendly warriors, and Colonel Brearly attended at Fort Mitchell, for that purpose, and there mustered the greater part

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of them. Some companies were mustered into service at several other places, which were more convenient for the purpose, owing to the local situation of the Indians. The first organization was that of a regiment; but, on getting into the field, they were recognised by General Jackson as a brigade. All these proceedings were communicated to the War Department from time to time, to some of which answers were received, and some not. The rolls made out on mustering the brigade out of service are in the office of the Paymaster General, or, at least, were sent to that office by me. The staff of the brigade consisted of one brigadier general, two colonels, two lieutenant colonels, two majors, one assistant adjutant general, four assistant commissaries of purchases, and one aid-de-camp, who was omitted in the muster roll. The force of the brigade about fifteen hundred strong.

The third question put by the committee, is, "The force of the hostile Seminole Indians."

From the accounts I have been able to receive, from Indians and others, I have never estimated the number of the Seminoles at more than seven hundred warriors, and I doubt whether they have that number, exclusive of those towns on the Chatahoochee who were considered hostile, during that war. The negroes have been estimated at two hundred and fifty or three hundred effective.

When General McIntosh and his warriors were mustered at Fort Mitchell, he divided his force, and, with that part which he retained under his own command, he descended the Chatahoochee on the western bank, and, on reaching the town called Red Ground, encountered their chief and warriors. In this affair he took fifty-three warriors, and one hundred and thirty women and children. The chief made his escape with a few warriors. Colonel Lovett, with the rest of the warriors mustered at Fort Mitchell, descended the Chatahoochee on the eastern bank, and, General McIntosh crossing the river below the fork, the two detachments united on their march to Mickasukee, where they all joined General Jackson. At Mickasukee, the Indians had generally fled, and but few were found at the town. On the march to Suwanee, McIntosh, with his warriors, encountered about two hundred of the hostile party, under Peter McQueen, of whom he killed thirty-seven, and made six warriors and one hundred and six women and children prisoners. The next enemy engaged were the negroes at Suwanee, amounting to about two hundred and fifty, of whom eleven or twelve were killed, and three made prisoners. The Indians of this part of the country fled before the army, and here ended the Seminole campaign, as far as the Indians were concerned. I will here observe that the Mickasukee Indians are not considered by the Creek nation as Seminoles. Those Indians under Bowlegs, are the only ones considered by them as Seminoles, although, in speaking generally of the Seminoles, in relation to the Seminole war, I include all the Indians who had a share in that war.

Being asked what became of the prisoners taken

by McIntosh, I answer, they were generally sent into the nation, and are now there.

D. B. MITCHELL.

Sworn and subscribed, 23d February, 1819.

No. 2.

FORT SCOTT, August 4, 1817.

SIR: Some of the chiefs of the lower towns on the Chatahoochee met at this place to-day. The chiefs of three towns were present, who had not been to Fort Hawkins at the time the stipend was delivered to them. They requested me to forward their names, and the names of their towns, to you, and inform you that the talk given to the Indians at that place they would agree to.

With respect, your obedient servant,

D. E. TWIGGS, Major Com'g.

I certify the foregoing to be a true copy of the original, now in my possession, 22d February, 1819.

D. B. MITCHELL,  
Agent for Indian Affairs.

No. 3.

Towns.	Chiefs.
Con-chatee,	Wacksee Micco,
Choco-nuklee,	Capetan Micco,
Oche-see,	Tallessee Tustunnuggee,
	Cow Merchant,
	Tuskeenehau,
	Holoth Emauthlau.

I certify the foregoing to be a true copy of the original memorandum enclosed to me in the foregoing letter, by Major Twiggs, 22d February, 1819.

D. B. MITCHELL,  
Agent for Indian Affairs.

No. 17.

ROBERT BUTLER, Adjutant General of the southern division of the Army of the United States, being duly sworn, testifies, that, in the Summer of 1817, Mr. John Donnelson, of the neighborhood of Nashville, went to Pensacola and purchased lots of land there, with the approbation of the Governor. That the deponent has heard that Mr. James Jackson of Nashville was concerned with him, and was the only person concerned. He also understood that Donnelson's first view in going to Pensacola, was for the benefit of his health. That Mr. Donnelson is nephew of General Jackson's wife. That he does not know the amount of Donnelson's purchase. That he does not know, nor does he believe, that General Jackson had, or expected to have, any interest in said purchase; nor did he ever hear it suggested.

The deponent further saith, that there were two regiments of mounted gun-men, volunteers, raised by General Jackson in January, 1818. That General Jackson appointed the colonels, and most or all of the field officers. That Colonel Haynes appointed the platoon and staff officers. That there were also two companies of volunteers, called life guards, who appointed their own officers, and tendered their services to the General, by whom they were accepted. Tha

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according to the best of the deponent's recollection, the Governor of Tennessee was at Nashville at the time the officers of the gun-men were appointed.

That General Jackson's first determination to go to Pensacola was made at Fort Gadsden, after his return from Suwany, and was made in consequence of information that there were, on or about the 15th of April, five hundred hostile Indians at Pensacola, who received ammunition and provisions from the Governor; and, also, information of several murders having been committed on the Federal road. That, on the march to Pensacola, General Jackson told the deponent, that if, on his arrival, he found the information true he would demand the surrender of the place. That, at Fort Gadsden, General Jackson saw a letter, which deponent thinks was from Innerarity, one of the house of Forbes, Leslie, & Co. at Pensacola, to Doyle, a trader, then at Fort Gadsden, giving information as to the number of Indians at Pensacola. That the letter also stated, that the property of the people of Pensacola was every day depredated on by the Indians. That, when General Jackson formed the determination to go to Pensacola, he ordered Lieutenant Sands to Mobile, to prepare artillery, to meet him after he should have crossed the Escambia, on his march to Pensacola, which order was executed.

That, at the time the army attacked Mickasukee, there were not more than five hundred Indian warriors imbodyed; nor does the deponent believe there were, at any time during the war, more than five or six hundred imbodyed at any one place. That, from the nature of the subject, this statement must be conjectural. That the enemy's warriors were in general well armed. That deponent was told there were about thirteen hundred souls at Suwanee, of which two hundred and fifty or three hundred were fighting men. That our army had one man killed and four wounded, in actions with the Indians, during the campaign, and two killed at the Barancas.

Deponent further says, that General Jackson received from a private source, a plan of the fortress of St. Augustine; and, as the deponent believes, it was sent to the General, at St. Marks, or Fort Gadsden, after his return from Suwanee.

That General Jackson had under his command, in Florida, about eighteen hundred militia, volunteers, and regulars, and fifteen hundred Indians under McIntosh. That these Indians were received into the service while General Gaines commanded, and were regularly mustered, in and out of service, by the United States officers.

## No. 18.

Colonel GEORGE GIBSON, of the United States Army, being duly sworn, testifie and says, that he acted as quartermaster general in General Jackson's campaign against the Seminoles. That, on the 29th day of January, 1818, at New Orleans, he received an order from General Jackson to procure, and bring to Fort Scott a supply of rations, ordnance, and quartermaster's and hospital

stores. That he joined the General at Fort Gadsden, on the 25th of March. That the General then placed him in command of the post, with orders to send stores round to Fort St. Mark's, which was done. That, in April, Major Hogan, paymaster, joined the army. He brought information of the murders committed in Alabama, and on the Sapogus, a branch of the Conecuh, by the Indians. About the same time information was brought by the sloop Hector to Fort Gadsden, from Mobile, that a large number of Indians were in Pensacola. This was confirmed by Captain Rogers, of the Peacock, from Mobile. In consequence of this information, the deponent held the transport in readiness, and sent thirty-three thousand rations to Fort Scott, believing, from the information he had, that the army would move to the West. On the arrival of General Jackson the deponent gave him the above-mentioned information, and a number of letters on the subject of the Indian war to the westward of the Appalachicola. That, on the 6th of May, the General ordered the deponent to Mobile, by water, with instructions to send artillery and ammunition to Fort Montgomery, and to be there ready himself to meet him with artillery, forage, and provisions. The General was to advise the deponent by express of the point at which he was to meet him. That the deponent accordingly received an express, and met the General twelve miles from Pensacola. The deponent further says, that he thinks it probable, that news of the assemblage of Indians at Pensacola reached General Jackson at or near St. Mark's by a schooner which went from Pensacola, and was sent by Innerarity, and was a trading schooner loaded with sutler's stores. That she arrived at Fort Gadsden, after leaving St. Mark's, between the 1st and 4th of May. That Lieutenant Sands was sent from St. Mark's to Mobile for ammunition and artillery, as deponent understood and believes, and conducted it to an artillery officer. That the army entered Pensacola on the day after the deponent joined, viz: on the twenty-third day of May.

That the deponent was at New Orleans at the time Captain Call was sent to Pensacola in February. That the schooner *Italiana* arrived at Pensacola in January with a load of provisions from the contractor, which were landed at Pensacola, and the duties paid by Innerarity, that a few months before this the contractor had been refused permission to send provisions up the Escambia, and had been obliged to carry them by land from Fort Montgomery to Fort Crawford. That, in the opinion of the deponent, it was impracticable to supply Fort Crawford in the Winter by land, and as that place was in a suffering condition for want of provisions, the attempt was renewed by water. That it is about sixty miles from Fort Montgomery to Fort Crawford. That Arbutnot's schooner, as deponent understood, was given by him to Colonel Brady, who assisted him in his trial, and was sold, as he heard, for about three or four hundred dollars.

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## No. 19.

*Statement of Doctor Bronaugh.*

I was attached to General Jackson's staff during the whole Seminole campaign. At St. Mark's the General received information, by a vessel from Pensacola, of a large number of Indians having collected there; where they were furnished with provisions, arms, and munitions of war. Believe that Captain Sands was sent from St. Mark's for Mobile, in quest of a train of artillery, to have it at Fort Montgomery, subject to the General's orders. I understood from the General that he would have all his arrangements made and entered into, that everything might be in complete readiness, provided he should ultimately come to the conclusion to visit Pensacola. I am impressed with the belief that an actual determination to occupy this place, and the Barancas, was never formed until the protest of Governor Mazot was received on the line of March.

J. C. BRONAUGH, *U. S. Army.*

## No. 20.

RICHARD K. CALL, captain United States 1st infantry, acting as an aid to General Jackson, being duly sworn, testifies and says, that, in the campaign against the Seminoles, he first joined General Jackson at Fort Gadsden, and afterwards, on the arrival of the Tennessee volunteers, he joined him again near St. Mark's; that he understood that General Jackson determined upon going to Pensacola, on hearing that the Governor of that place had protested against the passage of supplies up the Escambia river, and in consequence of subsequent information relative to the assemblage of Indians at Pensacola; that the deponent had been at Pensacola by orders of Colonel Trimble, commanding at New Orleans; that he arrived there on the 21st of February, 1818, and remained there until the 26th; that his orders were to obtain a passage for supplies up the Escambia to Fort Crawford; that the Governor of Pensacola stated to the deponent, that he considered it unsafe for him to give the privilege asked for, as he was under great apprehensions, if he did so, the Indians would take possession of St. Mark's, or give the Spaniards in that place great annoyance; that deponent made report of the above to Colonel Trimble, and also gave information of this protest or objection of the Governor to General Jackson; that, on the return of the army from Suwan, Lieutenant Sands was sent from St. Mark's to Mobile for cannon; that, at Fort Gadsden or St. Marks, deponent heard that General Jackson had a letter from Innerarity to Doyle or Hambly, informing that there were a number of hostile Indians at Pensacola; the number he thinks was said to be five hundred.

Deponent further says, that Arbuthnot's schooner was given by him to Colonel William Brady, who, as the deponent understood, defended him before the court-martial; that he does not know what became of the property on board of the

schooner, consisting of skins and some wearing apparel, among which was Ambrister's uniform; that the property taken at Suwan consisted principally of horses and cattle; that the army subsisted on the cattle, and that the other property was given to the friendly Indians; that the negroes taken were given to the Indians; that, as he understood, Colonel Arbuckle gave fifty dollars a head to the Indians for every negro delivered to him at Fort Gadsden, intending to deliver them to their owners when called for. Deponent further says, that General Starks, from Georgia, purchased some of the surrendered property.

## No. 21.

*Statement of John H. Eaton.*

Some time in the Fall of 1817, I proposed to Mr. James Jackson, of Nashville, to join with me in the purchase of lots in Pensacola, and lands in and about there: he united with me; and six other gentlemen were afterwards associated. We employed John Donnelson (who became also concerned) to proceed to Pensacola and make the purchases, taking care not to extend them beyond sixteen thousand dollars. My inducement to making this adventure was, that I believed the country would ultimately belong to the United States, and I was impressed with the belief that it would be at no distant period; this, however, was a mere impression, and founded on information derived from no source except my own opinions.

I proposed asking a letter of introduction from General Jackson to the Governor of Pensacola, which the General gave; this was thought by us necessary from a knowledge that the Indians frequently interrupted American citizens while in that city; and this danger we believed would be avoided by having the protection of the Governor, which we supposed could and would be attained by introductory letters from respectable sources. I think it was some time in November that Mr. Donnelson proceeded on his mission from Nashville, in company with a Mr. Gordon, who we employed to go with him.

The purchases were made, consisting of a number of unimproved lots in Pensacola, sixty acres of ground adjoining the town, on the lower side, and about two thousand acres on the bay two or three miles out. The deeds I have seen, and are now at Nashville, written in the Spanish language, made to Mr. Donnelson, and by him since conveyed to the eight gentlemen interested originally. Mr. Donnelson stated to me that his first purchase was refused to be acquiesced in by the Governor of Pensacola, alleging that American citizens should not buy lands there; his objection, however, was withdrawn afterwards, and Mr. Donnelson was permitted to go on and complete his purchases.

I aver that General Jackson is not, nor ever was, in any manner concerned with this company; nor was it entered into from any conversation, hint, or opinion ever given by General

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Jackson, but arose entirely from the circumstances first stated in this affidavit—the belief that the country would, ere long, belong to this Government; and that, if so, the speculation would prove a beneficial one.

The eight gentlemen concerned are as follows:

James Jackson, sen.,	John McCray,
James Jackson, jr.,	John Jackson,
John H. Eaton,	Thos. Childress,
John C. McLemore,	John Donnelson.

The above gentlemen bearing the same name are in nowise connected or related to General Jackson; the General, in fact, has no relatives; all his family having perished during the Revolutionary war, in this country, as I have ever understood. Mr. Donnelson is nephew to Mrs. Jackson, the wife of General Jackson.

Question. Did you have any conversation with General Jackson before or after getting his orders to go to the Seminole war?

Answer. After getting his orders I did not; shortly after our association was formed I saw General Jackson, and named to him what had been done; and his remark was, that he had no doubt but that our project would turn out advantageously, or in words to this effect; but General Jackson's opinion rested on no better foundation than our own, a belief prevailing through the country at that time that the country was about to be ceded. Many purchases were made in Pensacola last Fall, I have understood, founded, no doubt, on this general public impression.

Sworn to:

JNO. H. EATON.

No. 22.

*Colonel King to Major General Jackson.*

PENSACOLA, October 15, 1818.

SIR: Captain Boyles returned to this place on the 13th, having been wounded in an affair with a party of hostile Indians near the Choctawhatchy.

He reports, that, on the 6th instant, he left his boats in Yellow Water, and, with a detachment of twenty-two men on foot, pursued a party of Indians whose track he had discovered. He overtook them on the 8th, about twenty-five in number, attacked and defeated them, killing four, wounding many, and making some prisoners. A large quantity of ammunition, and all their plunder, fell into his hands.

The following morning, just before day, the party defeated the day before, supposed to have been reinforced, attacked him in his camp; but he succeeded in repulsing them with loss, notwithstanding one-half of his men fled at the first onset, and were never again brought into action. In this affair, the captain himself received a musket ball in the side, and had one of his men dangerously wounded; this, together with the want of provisions, compelled him to return to Pensacola, bringing with him sixteen prisoners. He reports to have made seven scalps during the expedition.

The rangers being very much fatigued, I shall permit them to rest a few days. I hope Captain Boyles will be sufficiently recovered to resume his command. I shall then once more order him to the Choctawhatchy, where he is of opinion a party is concealed, of from forty to fifty warriors, who have resolved never to surrender, confiding in the expected return of the Spaniards, when they are sure of protection and supplies, and will again commence their depredations on our settlements. This expedition, I flatter myself, of Captain Boyles's will disappoint and render them harmless, before the province is evacuated.

I cannot close this communication without again calling your attention to the meritorious conduct of Captain Boyles. In zeal, activity, and perseverance, he is surpassed by no partisan I have ever known.

W. KING, Col. 4th regiment.

Major Gen. A. JACKSON,  
Com. Division of the South.

*Major Fanning, commanding St. Mark's, to Major General Gaines.*

FORT ST. MARK'S, EAST FLORIDA,  
November 27, 1818.

SIR: From an Indian family arrived here yesterday, from Tampa Bay, I learn that the Seminoles have received from St. Augustine ten pack-horse loads of ammunition, and that it was distributed among them sixteen days ago. That an English trading vessel was at Tampa a month since. Some provisions and ammunition were procured from her by the enemy. That, ten days past, two English trading vessels were at Snake island, not far from the mouth of Sukaney river.

Thus, there can be but little doubt of the Seminoles being now well supplied with ammunition and provisions.

The Spaniards recommended to the enemy united and vigorous operations against us, telling them that they themselves were going to take St. Marks, which they expected to do without fighting, in the same manner it was taken from them. That from St. Mark's they would go to Fort Gadsden, where they expected some little resistance, and finally to Pensacola.

These circumstances have put new life among the Sukaney Indians, but Kinhiyah says he has heard such talks too long, and that he will collect his people and go back to his old situation, and be on friendly terms with the United States. The other Indians who left their towns and went to Sukaney, during our last campaign, are moving, or about to move, back again, and wish to have nothing further to do with the war.

There is too much appearance of truth in this relation, not to deserve attention; and, in conformity to the spirit of the general order of the 16th September, I shall not give up this post to the Spaniards, should they arrive, until I may be convinced of the falsehood of the report respect-

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ing their conduct, or until I may receive orders so to do from superior authority.

I have the honor to be, yours, &c.

A. C. W. FANNING,  
*Commanding St. Mark's.*

Major General E. P. GAINES.

Certified:

DANIEL E. BURCH, A. D. C.

*Extract of a letter from General Jackson to the Secretary of War, dated*

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, November 28, 1818.

I enclose you a copy of a letter from Colonel King, detailing a conflict between Capt. Boyles, of the Rangers, and a detachment of hostile warriors. The conduct of the captain, in this affair, was meritorious, and I trust, ere this, he has recovered from his wound, and disappointed the hopes of the warriors of the Choctawhatchy. A short time since every mail from the South reported the pleasing intelligence of the general submission of the Seminoles; the cause of the reassumption of hostilities is stated in the Colonel's communication. The fact that the news of the restoration of Pensacola to Spain had revived their hopes, and again excited them to war, is an additional evidence of the propriety of my operations in the Floridas, and has confirmed me in my unalterable opinion, that the Seminole conflict could not have been terminated by any other means than those adopted. My only apprehensions are, that my operations were not sufficiently extensive to insure permanent tranquillity in the South. St. Augustine is still in possession of the Spaniards, and the whole peninsula is beyond the control of our garrisons. The situation of Florida, in relation to our country, is peculiar, and demands the early attention of our Government. Bordering almost on the Creek nation, and within the vicinity of the four southern tribes of Indians, her territory will always prove an asylum to the disaffected and restless savage, as well as to a more dangerous population, unless some energetic Government can be established to control or exclude these interlopers. The savages and negroes who have not submitted to our authority have fled east of the Suwany river, and whether settled in the Alotch-away plains, near St. Augustine, or more southwardly, we have yet to learn. Their force, no doubt, is too inconsiderable to create any serious disturbances with this country; but, if unmolested, they may acquire confidence with their strength, and prove a destructive enemy to our frontier settlers. They should be pursued before they recover from the panic of our last operations.

I submit to your consideration military operations for this Spring, connected with the occupancy of the bay of Tampa. The plan proposed is to embark, from Fort Gadsden or Pensacola, five hundred regulars, for the bay of Tampa, to-

gether with a force, say one hundred and fifty or two hundred men, adequate to the maintaining of the work to be constructed at that point. Simultaneous with this movement, to push a force of five or six hundred men up to the St. John's, and occupy a position at or near the old Indian town Pecolota. This force, as soon as strongly fortified, to be actively employed in scouring the country as far west as Suwany, forcing to, or receiving the, submission of the hostile Indians, who will be sent into the interior of the Creek nation. The troops detached to the bay of Tampa having constructed and garrisoned a suitable work, having reconnoitered the neighboring country, and destroyed Woodbine's negro establishment, to march to the position occupied on the St. John's, deviating only where Indian villages or settlements (if there are any in the country) invite their attention. From the best information I can collect, the march from Tampa to the point proposed on the St. John's would not exceed seven days. Each man, from my own experience, can march with eight days' rations on his back, which, with due economy, will last twelve—time sufficient to perform the operation intended. The expense of the expedition would be trifling, as it is proposed that none but regulars should be employed, and the advantage to the nation incalculable, as finally crushing savage hostilities in the South, and affording active service to some of our regiments who have grown sluggish from the inactivity of garrison duties.

*Major General Gaines to Governor Coppinger.*

HEADQ'RS, AMELIA ISLAND,  
December 28, 1818.

SIR: I have received information that Augustus Santee, a sergeant of the United States artillery, who had obtained from his commanding officer a temporary leave of absence, was a few days since fired on, arrested, and imprisoned, by a party of armed men at St. John's, headed by a person assuming the rank and character of a Spanish officer.

It is likewise reported, that two citizens of the United States were by the same party fired on, wounded, and imprisoned; and that the perpetrators of this outrage, with a view to shelter their conduct under the veil of Spanish authority, took the sergeant and citizen by force towards St. Augustine, whither it was understood they were to be carried, under a pretext that they would there be arraigned and tried as offenders.

Presuming that the information given me upon this subject is correct, I hasten to demand of you the immediate liberation of the sergeant and citizens thus arrested, wounded, and imprisoned, within your government.

Major James M. Glassell, of the general staff of the army of the United States, is instructed to hand you this letter, and to take charge of, and order to this place, the persons confined; and, by this officer, I shall expect to receive from you a proper explanation, with the assurance that the



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perpetrators of this outrage will be punished as its enormity demands. I have, &c.

E. P. GAINES, *Maj. Gen. comd'g.*

His Ex'y Gov. COPPINGER, *St. Augustine.*

HEADQ'RS, FERNANDINA, E. F.,  
*December 29, 1818.*

SIR: I have received information from several persons, lately from St. Augustine, that a party of armed men, headed by a person called Captain Miller, assuming the rank and authority of a Spanish officer, about the 23d instant, fired upon Augustus Santee, a sergeant of the United States artillery, with two citizens of the State of Georgia. The sergeant had obtained a short leave of absence, to accompany his brother on a visit to St. John's. This brother and the other citizen are reported to have been badly wounded. The sergeant and one of his companions (the other being unable to travel) were seen on the 24th, marching under guard towards St. Augustine.

I have addressed a note to Governor Coppinger, demanding the immediate liberation of the sergeant and other persons confined; a copy is enclosed herewith, marked No. 1.

The Captain Miller above mentioned is reported to be a deserter from our service; he is, nevertheless, understood to be a captain of the Florida militia, and to have acted under the authority of the Spanish Governor.

The sergeant was absent without my knowledge; the unfortunate citizens who were wounded are represented to be disorderly men, and are suspected of having gone to Florida with a design to arrest some fugitive offender who had escaped from prison in Georgia. This impression, however, appears to be founded only in vague rumor. Be this as it may, there is, notwithstanding, much ground to believe that the Spanish authorities only want the means to enable them to give us open and unequivocal proofs of their settled hostility, and intimate connexion with our red enemies. In support of this opinion, I enclose herewith No. 2, a copy of a letter from Major Fanning, commanding St. Marks, received by the last mail. By this it appears, from Indian testimony, that the Spaniards at St. Augustine, with all their affected purity, have lately furnished hostile Indians, at the bay of Tampa, with ten horse-loads of ammunition, recommending to them united and vigorous operations against us. I shall hold myself in readiness to do what can be done with the limited means under my control, and shall strike at any force that may present itself.

Permit me to request, that an officer of the Quartermaster General's department may be ordered to join me, with the sum of twenty thousand dollars, for defraying the expenses of that department; and that a battalion of infantry may be ordered to this place, in addition to my present command. I have the honor to be, &c.

EDMUND P. GAINES.

Hon. J. C. CALHOUN, *Secretary of War.*  
15th CON. 2d Sess.—73

[Mr. Lacock communicated the following additional documents to the Senate, March 3, 1819.]

WASHINGTON, *March 3, 1819.*

On an examination before the Special Committee of the Senate, on the subject of the Seminole war, I was told by the honorable Mr. Burrell, one of the committee, that what he (Mr. Burrell) then took down of my testimony was a memorandum; and if used, that my deposition should be written out, and submitted to me for correction. The deposition was not submitted, but was sent at once to the printer, who, believing that several words were omitted, sent it to me for revisal. I then waited on two of the committee Mr. Lacock and Mr. Burrell, and obtained leave to strike out a part; but they would not permit me to make any additions. The parts struck out were not material. What I wished to add was the substance of an order, the following extract from which I beg leave to make a part of this deposition.

GEORGE GIBSON.

*Extract of an order to Colonel Gibson, dated*

CAMP, 26 miles east of St. Mark's,  
*24th April, 1818.*

General McIntosh and his warriors will be at Fort Scott, and will probably take much of the supplies ordered up, and as the Tennessee volunteers will pass from Gadsden to that point, he wishes you to despatch a boat with a further supply, and should the corn have arrived from New Orleans last ordered, you will forward a considerable quantity also to enable the volunteers' horses to reach Fort Hawkins.

ROBERT BUTLER, *Adj't Gen.*

The order from which this extract is made, together with the order from which the following is extracted, were submitted through Mr. Eaton to the committee. I beg leave also to make the second extract a part of this deposition, to wit:

*Extract of another letter to Colonel Gibson, dated*

BEFORE ST. MARK'S, *April 9, 1818.*

This is caused by one of those deluded wretches who have asked for peace, and it is granted them. Seventeen men, eighteen women, and thirty children, have surrendered; and they ask permission to pass by water to Fort Gadsden. This is granted them, and they will remain here until the runner returns by whom you will write to the commanding officer of St. Mark's, Captain Vashon, under what badge you know them.

ANDREW JACKSON.

DISTRICT OF COLUMBIA,

*County of Washington, to wit:*

On this 3d day of March, 1819, George Gibson personally appeared before the subscriber, a justice of the peace in and for the county aforesaid and made oath, in due form of law, that the matters and things, as set forth in the annexed statement, are true as stated.

Sworn before

JOSEPH FORREST.

*Defeat of the Seminole Indians, &c.*

ROBERT BUTLER, adjutant general of the southern division of the Army of the United States, being duly sworn, testifies that, in the Summer or Fall of 1817, Mr. John Donnelson, of the neighborhood of Nashville, went to Pensacola, and purchased lots of land there, with the approbation of the Government; that the deponent had heard that Mr. James Jackson, of Nashville, was concerned with him, and was the only person concerned; he also understood that Donnelson's first view in going to Pensacola was for the benefit of his health; that Mr. Donnelson is nephew of General Jackson's wife; that he does not know the amount of Donnelson's purchase; that he does not know, nor does he believe, that General Jackson had, or expected to have, any interest in said purchase, nor did he ever hear it even suggested.

The deponent further saith, that, on the 10th January, 1818, General Jackson addressed a circular to the old volunteer officers, to raise volunteers for the Seminole campaign, in which the following clause is found: "The grade of the officers to be determined by themselves, or the platoon officers of the regiment. The officers raising companies to command." The deponent has heard that an election was held, and the rank of the field officers established in that way, and not appointed by General Jackson, as stated in the deponent's affidavit, before the committee of the Senate, as positive, when the deponent then stated it as matter of opinion only. Also, that the Governor of Tennessee was at Nashville, which appears, from reference to papers, was not the case. The deponent further states that General Jackson received information at St. Mark's, on his return from Suwanee, that there were about five hundred hostile Indians at Pensacola who received ammunition and provisions from the Governor. In consequence of which, the General ordered Lieutenant Sands, of the artillery, to Mobile, to hold two field pieces of field artillery in readiness for his orders. On the arrival of the army at Fort Gadsden, the General received information of several murders having been committed on the Federal Road, and was shown a letter, said to be private, from a gentleman at Pensacola to Mr. Doyle, as the deponent believes, stating that a large number of Indians were in Pensacola, and depredating on the property of the citizens; this information determined the General to change his route for Tennessee by Pensacola, and orders were given to Colonel Gibson to proceed to Mobile, and afford Lieutenant Sands every facility in moving the artillery to Fort Montgomery to await the General's order, which was given, on nearing the Escambia, by express, requiring the artillery to form a junction with the army, after crossing that river, which was executed. The General remarked to the deponent, on march to Pensacola, that if he found the information true on reaching that place, he would demand a surrender of it; and the deponent believes that the determination of the General to occupy Pensacola and Barancas was made on receiving the protest of the Governor,

and learning that his provisions were stopped by him at the former place. That at the time the army attacked Mickasuky, there were not more than five hundred Indian warriors imbodyed, nor does the deponent believe there were, at any time during the war, more than five or six hundred imbodyed at any one place; that, from the nature of the subject, this statement must be conjectural; that the enemy's warriors were in general well armed; that deponent was told there were about thirteen hundred souls at Suwanee, of which two hundred and fifty, or three hundred, were fighting men; that our army had one man killed and four wounded, in actions with the Indians during the campaign, and two killed at the Barancas. Deponent farther says, that General Jackson received from a private source a plan of the fortress of St. Augustine; and, as the deponent believes, it was sent to the General at St. Mark's, or Fort Gadsden, after his return from Suwanee; that General Jackson had under his command in Florida, from recollection, about eighteen hundred regulars, volunteers, and militia, and about fifteen hundred Indians under McIntosh; and that the Indians were received and mustered into the service of the United States, under the orders of Brevet Major General Gaines, and mustered out of service under orders of Major General Jackson, by a regular officer.

This deponent deems it due to himself to state that the deposition published with the report of the committee of the Senate, under his name, was not written by him, but was taken down by Mr. Burrell of that committee, and a promise given to the deponent that, when it was thrown into form, it would be submitted for correction and signature, which was not done, although the committee were twice informed, by one of its members, at the request of this deponent, that parts thereof were not correct, hence the deponent was not able to give the necessary correction which he would have done from an examination of papers, and necessary reflection.

ROBERT BUTLER.

DISTRICT OF COLUMBIA,

*County of Washington, to wit:*

On this 3d day of March, 1819, Robert Butler personally appeared before the undersigned, a justice of the peace in and for the county aforesaid, and made oath on the Holy Evangelists of Almighty God, that the matters and things, as set forth in the foregoing, are true as stated.

Sworn before

JOSEPH FORREST.

[On the 23d of February, 1820, Mr. Rufus King presented to the Senate the following memorial and documents:]

*Memorial of Andrew Jackson, Major General in the Army of the United States, and Commander of the Southern Division.*

*To the honorable the Senate of the United States:*

On the 18th of December, 1818, your honorable body resolved "that the Message of the

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President, and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Mark's were amenable to, and under the control of Spain; and particularly what circumstances existed to authorize or justify the commanding General in taking possession of those posts."

In conformity with this resolution, a select committee of five persons of your honorable body was appointed, who, on the 24th of February, 1819, made a report.

The committee had ample time for a correct examination of the subject submitted to their consideration, and means by which to have been fully satisfied of the innocence of your respondent; yet, in their report, has he been accused of crimes against the laws and constitution of his country. Upon a review of that document, your respondent is free to declare that both the narrative of facts, and the arguments deduced from them, are unsound and erroneous. The incorrect impressions with which the committee seem to have labored have, in the opinion of your memorialist, given to this subject a distorted aspect, and thrown around it a deceptive coloring.

With striking a deadly blow at the liberty of his country, and with acts of wanton usurpation, which, for their enormity, would vie with the most absolute despots—with the Directory of France, during their short career of madness and folly—has your respondent been charged. These accusations have for their object the rendering your respondent obnoxious to his fellow-citizens. Still, he will not so far forget the duty he owes himself, and the respect due the Senate and the American people, as to indulge recrimination. It is not the means by which truth can be arrived at, or the cause of justice and impartiality promoted. But, to vindicate himself from reproach, to ward off unmerited imputations, and to stand in opposition to a report of a committee of your body, which casts the severest censure, is a right secured to him, because it is the right of every citizen.

With all the respect, therefore, that is due to an august branch of the Government, but with that frankness and sincerity which conscious innocence demands to assume, does he present himself. It is a duty which he owes to himself, to his office, to his family, nay, to his country, for which he has encountered privations, and whose interest has always been dear and paramount to all other considerations. In doing this, he will not depart from that respect which is proper to be observed; nor will he hesitate to believe but that the Senate, on an impartial examination of the facts, will come to conclusions different from what their committee have arrived at.

The manner in which the inquiry was conducted by the committee is believed to have been novel; a mass of testimony, tending seriously to affect the reputation of an individual, was

collected; and, although it was proposed, yet was an opportunity denied him, of appearing before them to offer any statement or explanation in his power, in relation to those subjects upon which doubts and difficulties might arise. He was deprived, by this refusal, of the privilege of confronting his accusers, and of interrogating and cross-examining witnesses summoned for his conviction. Such testimony only as the committee chose to select was heard, and, when published to the world, declared a language different from what the witness intended.

By refusing the accused an opportunity to confront and cross-examine witnesses, how easily may be indulged in rancorous invective, and occasions sought to vent malignant and implacable resentments. Your respondent does not pretend to assert that anything of the kind occurred during the present investigation, but has barely adverted to it as forming a portion of the evil consequences which might arise from so informal a method of inquiry. To adopt such a course, is to prostrate the rules of judicial proceedings, to violate every maxim of justice, and to trample down all the sacred guaranties of the Constitution. He has been taught to believe that, agreeably to the provisions of our *magna charta*, every individual was secure in his life, liberty, property, and reputation; and that he could not be tried before any constituted authority of the nation without being heard in his defence, permitted to introduce exculpatory evidence, to cross-examine and confront his accusers. This is one of the choicest fruits of our republican institutions, and is an essential preservative of liberty; it should be guarded with vestal vigilance, and for no purpose whatever subjected to violation by any branch or department of the Government. In its maintenance there is safety, but danger in departure.

The committee, whilst adverting to the origin of the Seminole war, have omitted to enumerate the Spanish and Indian aggressions on our rights, as a justification of the measures which were adopted in its prosecution. They have rather employed palliatives for the outrages of the enemy, and given an aggravated aspect to the measures which were adopted for the peace and security of our frontiers. Add to this the manner in which the testimony was collected, the misconception of facts and incorrect arguments contained in the report, the time at which it was published, and the style in which it was composed; and your respondent cannot forego the belief that it evinces an hostility to the Executive, and to the military officers under his command.

It is a subject of no small surprise that this spirit of opposition should have diffused itself, after the luminous arrangement of facts, with the conclusive reasoning and inferences arising from the laws of nations and the United States, by Mr. Secretary Adams, as well as the ample and satisfactory discussion in the House of Representatives, the great inquest of the nation. Moreover, Congress had made provision for a vigorous pro-

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secution of the Seminole war in the Spring of 1818, in conformity to the suggestion of the President in his Message of the month of March, when he detailed to them every information in relation to that subject. The citizens of Georgia and Alabama had made repeated calls on the General Government for protection; and, with a full knowledge of all the circumstances touching the causes and progress of that war, Congress authorized the calling out an additional brigade of militia, and made liberal appropriations for the payment of the Georgia troops then in service. The President, too, who is commander-in-chief of the army and navy of the United States, and who should be the proper judge to determine whether his orders be faithfully executed, had made the acts of his officers his own, not only by the express authority which he had conferred, but by subsequent adoption also.

With a large majority of the people of the United States the defensive measures adopted by the Government, as also the reasons by which they had been governed, were entirely satisfactory, in consequence of its being perceived that no other course could have been pursued which would have secured the indispensable purposes for which the Seminole war had been prosecuted. That those measures should be denounced as a violation of the laws and Constitution, by those very persons who originally gave them their suffrages, is certainly calculated to excite the astonishment of every impartial observer.

Under such circumstances it was to have been anticipated that all controversy, relative to the agency of your respondent in giving rise to the war, would have been completely put to rest. It was confidently expected that he would have escaped the crimination of your committee; reproaches which, if sanctioned by your honorable body, are little inferior to cashiering; besides, no instance is to be found on record where a similar course was adopted in relation to any of the Indian wars in which the United States have been engaged.

After all the above circumstances had transpired, and it was supposed that the subject of the Seminole war had been finally disposed of in the House of Representatives, your committee took it up with avidity, prosecuted it with an assiduity that was unexampled, and animadverted upon the conduct of the Executive, and his official agents, in a manner which is believed to be altogether strange and novel. By reiterations of mal-conduct they seem to have evinced a disposition to stamp upon the whole transaction, and those connected with it, infamy and disgrace.

Should the time ever arrive when a majority of any of the superior tribunals of the nation, influenced by party feelings, shall proceed to criminate a public officer, or effect his removal, in order to create a vacancy, or to gratify the ambition of a favorite partisan, then may private resentment, and the most angry passions, acquire an unbounded and dangerous control over their proceedings. Every sentiment of justice and humanity will be completely stifled, as well as all

regard for the Constitution and laws. The patriot will have ample cause to tremble for the honor of his country, and the perpetuity of her republican institutions. The venerable fabric of our liberties, which has been consecrated by the blood of our heroes, and the wisdom of our sages, will be imminently endangered, if not entirely buried in ruins.

That the charges preferred should have been published to the world, at a time to preclude all investigation, is a circumstance but little calculated to impart consolation, or to quiet the alarms of reputation assailed. No other sentiment can be indulged than that it was intended, by counteracting the decision of the House of Representatives previously made, to produce an unfavorable impression on the public mind, before anything could be offered as an antidote to the impressions it was intended to disseminate. Twelve months have almost elapsed since the publication of the report; all investigation has been necessarily postponed, and hence has additional, unmerited injury been sustained. The effect has been to excite prejudice, and thereby prevent that impartial examination which is so essential to correct determination. Calumny has been aided, suspicion left free to act, and the means of exciting public odium amply afforded. Resting on the eternal principles of truth and justice, and claiming for himself the high prerogative secured by the Constitution, this respondent asks to appear in his own vindication, and to submit the grounds of his defence, and the "motives" by which he has been actuated.

The first consideration which presents itself, is the authority under which your committee acted. Three propositions only are contained in the resolution of your honorable body, upon the second of which no report has been made, nor has your committee stated "what circumstances existed to authorize or justify the commanding General in taking possession of the Spanish posts." Instead of confining themselves within the pale of their powers, they have travelled over the whole ground occupied by the House of Representatives, in search of new subjects of inquiry not before touched on, or embraced within their powers.

So far as the committee have embraced within their investigation the original causes of the war; the withdrawal of the regular troops from the frontiers of Georgia; the employment of volunteers and friendly Indians; the execution of Arbuthnot and Ambrister; the order to take possession of St. Augustine, and the reasons and motives of your respondent in the conduct and management of the war, it is believed to be an act of supererogation, and a departure from sound practice. This objection is not made by your respondent upon the ground that he considers his conduct vulnerable, or from a wish to elude inquiry; but is barely mentioned as presumption of the strong disposition of your committee to affix censure upon his motives and actions.

Upon a careful examination of the discretionary orders which were directed to your respon-

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dent from the Department of War, there can be no question but that they authorized and justified every measure which was adopted during the Seminole war, and should, at once, have acquitted him of all censure and responsibility. He was ordered to engage in offensive operations; to bring the war with the Seminoles to a speedy and successful termination, with exemplary punishment for hostilities so unprovoked; and to establish a peace on such conditions as would make it honorable and permanent. He was, in effect, charged with the management of the war, and vested with the powers necessary to give it effect. No orders could have been more ample, as to the selection of means, as well as to their application.

The massacre of Mrs. Garret and children, and the butchery of Lieutenant Scott and comrades, your respondent is informed, were the events which induced the Government to order him to take command of the operating army, and to prosecute the war with vigor and effect. They had determined to abandon the cautious and defensive policy hitherto adopted, and to pursue a new system of operations against the enemy. The orders directed to your respondent and General Gaines, subsequent to those tragical events, were entirely different from former ones; inasmuch as they were peremptory as to carrying on operations in Florida against the Seminole Indians.

The first order to your respondent had no reference to those issued to General Gaines, save that of the same date with his own, which was directed to him at Amelia Island, requiring his co-operation in the attack upon the Seminoles. In no part of it was a reference to any previous order to your respondent, or any other person, pointing out the most advisable means to be adopted, or limiting him in their choice or application. And even had the orders of General Gaines been obligatory, as the case which they contemplated never occurred, they must entirely have lost their force and effect. An order to perform a particular service, or to effect a specific object, without any limitation as to the means to be employed, leaves, it is conceived, an entire discretion with the officer as to their character and application—it then becomes a general power. It is also believed to be true that the limits of such an order cannot be transcended without an entire desertion of the object contemplated. The orders of your respondent completely superseded those directed to General Gaines; and, if so, he must stand acquitted of the high charge of having been guilty of their violation. Yet, if any doubt could exist upon this subject, the subsequent approval of the measures and motives of your respondent, by the Executive of the United States, completely settles all controversy.

In the first page of the report an effort is made to induce a belief that the Treaty of Fort Jackson was negotiated by your respondent, and that the hostilities of the Seminoles proceeded from its unjust and tyrannical demands. Upon this branch of the subject your respondent begs leave

to remark, that the General Government had some time previously settled the terms of capitulation, and your respondent, not as a commissioner or negotiator, but as the conqueror of the country, received their submission upon those terms—terms which demanded the surrender of their prophets, as well as the instigators of the war.

Those Indians, having been routed at Hoithle-wallee, in April, 1814, fled to Pensacola, where they were protected, clothed, fed, and supplied with munitions of war, by the Spanish authorities. They never were parties to the treaty at Fort Jackson; and, however they might have been dissatisfied with its conditions, as demanded by the Government, their dissatisfaction and hostility were excited by Spanish agents and British emissaries resident among them; one of whom was the infamous Woodbine, who was then engaged in enlisting them in his service by the distribution of presents, and in disciplining them for war. These facts might have been ascertained by a reference to the correspondence between your respondent and the Governor of Pensacola, which were on file in the War Department.

Upon the subject of occupying the Spanish posts your respondent thinks proper to observe, that he deemed it essentially necessary to the execution of his orders. It would have been impossible to have obtained a speedy and effectual termination of the war, so long as the commandants of those fortresses furnished the enemy with supplies and munitions of war, and aided, abetted, and encouraged them in their savage hostilities against our frontier settlements.

They had both become the rendezvous for imbodying hostile negroes and Indians, and for giving them comfort and protection. According to the acknowledgments of her own commanding officers, the authority of Spain over Florida had ceased, and was to be considered as *derelict* to all intents and purposes. Your respondent did not believe himself under any obligation to respect an authority that did not exist; a sovereignty that was not asserted or exercised; reason nor law could require him to respect rights that were suffered to be usurped for the purpose of promoting a most cruel and sanguinary war against the citizens of the United States. These posts had been alternately substituted for the fort, on the Appalachicola, and thither the negroes and Indians had retreated for shelter and protection, after their defeats at Mickasuky. They constituted the laboratories of the war, and there were their materials collected and organized for active service. They were in reality Indian forts and storehouses, attempted to be protected by the Spanish flag; and had they been in the exclusive possession of our savage enemies, they could not have derived greater advantages, been more benefitted, nor we more seriously injured.

Against such an enemy, what measures were to be adopted under orders that required a speedy and effectual termination of the war; and which were to give permanent peace and security to our Southern frontier? They were not to be

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met and fought in the open plain, where a decisive blow might be given, and the contest ended; but were to be sought for in the fortresses of Spain, and in the swamps of a wilderness, where they might contend at leisure, and recede from the contest, the moment it became hazardous. Partial remedies to prevent such evils had already been adopted by the American Government. During the war of 1812, Spain had suffered Great Britain to violate her neutrality in Florida, to the injury and annoyance of the United States. In 1814, Pensacola was entered by United States troops, and a lesson, it was hoped, enforced, that however this Government was disposed to cultivate peace, she could not preserve it by permitting Spain, regardless of existing treaties, to outrage her dearest rights. She was called upon to maintain her neutrality according to the injunctions of the law of nations, and the provisions of the treaty of 1795. She pleaded inability to comply, and the American Government forgave the injury. Peace was at length restored to the United States; yet still Spain, regardless of her obligations, permitted British agents to reside within the bosom of Florida, and to excite the Indians and negroes to pillage and to bloodshed. Remonstrance was again employed, but in vain. Inability was still the pretext, and the same tragical scenes, witnessed in 1814, were now repeated. The savages who had causelessly made war, and who were shedding the blood of our border settlers, being thus openly received and comforted by the Spanish authorities, were such acts of hostility, were so flagrant a violation of the good understanding existing between the United States and Spain, as, in the opinion of your respondent, wholly to merge the neutral character. And your respondent considers, that he would have been guilty of a dereliction of duty, had he drawn up his troops by way of cordon, and remained on the Georgia frontier, receiving the reports of Indian robberies and massacres, only that he might transmit them to the Secretary of War; for he could have done no more.

Both of those fortresses were clearly identified as "associates" in the war, and were both equally under the control of the negroes and Indians. Ambrister had appeared before St. Mark's with four or five hundred under his command; and an equal number had been seen about Pensacola, the most of whom were equipped for war by Governor Mazot. In both instances, the strength of the enemy was amply sufficient for a forcible occupation of the posts. Moreover, the Governor of Pensacola had refused the passage of provisions up the Escambia, destined for our starving troops at Fort Crawford. An United States schooner, called the *Amelia*, had been detained at that place until the town was taken, when were obtained from her provisions for the troops. Another provision vessel, ordered into the *Perdido*, had been captured by boats sent from the *Barancas*, and placed under the guns of the fort, but fortunately made her escape under cover of the darkness of the night.

In this state of things, had your respondent been compelled to suspend operations, and to wait for additional orders from the War Department, the object of anticipating the enemy would have been entirely defeated. He would have been compelled to retrograde to the interior, for the want of supplies, leaving many points of the frontier exposed to the ruthless barbarities of exasperated savages. The militia force would have become inactive and discontented; their time would have expired before anything effectual could have been done; and the campaign thus rendered completely abortive. If St. Mark's was necessary to the defence of the frontier of Georgia, Pensacola was much more so for the peace and security of Alabama. In consequence, too, of its being located on the seaboard, it afforded much greater facilities to our enemies, for it commanded the navigation of the Escambia, up which had, necessarily, to pass, all the supplies for our forts erected on its tributary streams. The occupation of this post was not determined upon, until the reception of Governor Bibb's letter, at the Escambia, detailing many outrages, and communicating the intelligence that Holmes and his warriors were then in Pensacola; as also, the receipt of Governor Mazot's protest, complaining of a violation of his neutrality, and ordering your respondent to retire from West Florida, accompanied with a threat to coerce him, if he did not comply. Lieutenant Sands had been despatched from St. Mark's, with orders to hold his artillery in readiness to meet future contingencies, should they occur; but he never was directed to convey it to a given point, until after your respondent reached the Choctawhatchy.

Nor were those proceedings considered acts of war, as represented by the committee. By adverting to the correspondence with the commandant of St. Mark's, the Governor of Pensacola, and the Secretary of War, it may be distinctly seen, that your respondent entered the territory of Spain as a friend, to chastise an enemy of both nations, and to enforce those obligations and duties which the Spanish authorities had pleaded inability to perform; that all his operations were bottomed on the broad principle of self-defence, authorized by the law of nature and of nations. They were not directed against the Government of Spain, but against the fortresses which had become the strongholds, the rendezvous, of negroes and Indians, and whose neutrality was prostrated to the basest purposes. They were seized because they were Indian posts to all intents and purposes. Spain has disavowed the conduct of her official agents; and the American Government has declared that a war was not intended with that nation.

Although the Spanish authorities were guilty of many open and undisguised acts of hostility, yet the sovereignty of Spain over Florida was altogether ideal. Her commandants had repeatedly acknowledged that they were unable to restrain the savages, and that the Indian chiefs and British emissaries were proceeding contrary to their wishes, and in violation of their laws;

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hence were these fortresses occupied, as the only measure which could give a speedy and permanent peace to our bleeding frontiers. The Spanish Government did not consider it an act of war, nor did Mr. Pizarro or Don Onís complain of it as a measure of that description. The two Governments have acknowledged themselves at peace, and have since kept up a regular and friendly intercourse with each other in the shape of negotiation.

Neither were the garrisons made prisoners of war, or treated like conquered enemies, as is stated by your committee. The contrary will be made clearly apparent, by an examination of the conditions upon which the Spanish posts were occupied; to which your respondent begs leave to refer. Your committee acknowledge that the Spanish authorities in Florida were guilty of acts of war against the United States; but that her neutral character was not wholly merged in that of the enemy, in consequence of her employing moral and not physical force. If giving the negroes and Indians encouragement in their outrages, by the purchase of their plunder; furnishing them with aid and protection, supplies and munitions of war, did not wholly merge the neutrality of the Spanish authorities, and make them associates in the war, your respondent confesses that he is at a loss for a definition of terms.

Agreeably to this idea, it would be improper to consider the population of a nation, with whom we were at war, as enemies, save those who were in the field; for it is only the latter who resort to "physical force." This distinction is entirely new, and is in contradiction to many of the most clear and long established principles of good sense and national law.

It is stated by your committee, that all authority at Pensacola was put down by the sword, and that a new Government was established, "the powers of which, both civil and military, were vested in military officers." Every one would be induced to understand, from this, that the terms of capitulation were arbitrarily and tyrannically imposed upon Governor Mazot, when, in fact, they were proposed by himself, and the civil and military Government was dissolved at his own instance. The temporary Governor, Colonel King, was an officer of the United States' army; but civil officers were appointed to the different departments from among the citizens; and Mr. McKinsey, a citizen of Mobile, was placed at the head of the magistracy. All that was contemplated was to organize some kind of civil authority for the protection of the lives, liberty, and property, of the citizens, during the temporary occupancy of the fortress. The same Government to which the people had been accustomed was retained. It became absolutely necessary to establish the revenue laws of the United States, in order to check the smuggling which had been carried on successfully in this quarter for many years, as well as to admit the American merchant to an equal participation in trade, which would have

been denied under the partial operations of the Spanish commercial code.

The executions of the Indian chiefs and British outlaws are justifiable on the ground of precedent and the laws of nations. One of the former was a prophet, who had employed his superstitious influence, and the promises of his transatlantic friends, to stimulate his deluded brethren to deeds of rapine and massacre. The other commanded in person the party who perpetrated the cold-blooded butchery of Lieutenant Scott and his unfortunate companions. Both had been engaged in most of the murders committed, and were active instigators of the savage war which raged on our defenceless frontier.

Acting as chiefs of the negroes and Indians, Arbuthnot and Ambrister, by numerous acts of atrocity, had become identified with those monsters—*associates* in the war. They were the principal authors of the hostilities of the ferocious savages, who observed none of the rules of civilized warfare, who never gave quarter, and only took prisoners for the purpose of torturing! They were, without authority, principals in an unlawful war. Their mode of carrying it on was characterized by plunder, massacre, destruction, and revenge; and was in open violation of the laws of war and of nations. Great Britain would not interfere to prevent those miscreants from instigating the fugitive negroes and the Indians from burning, and pillaging, and scalping, the inhabitants of Georgia and Alabama; but she disowned them, and left them to their fate. The Spanish authorities would not, or could not, interfere, and the Indians regarded them as friends and associates. Both acted as chiefs of the motley banditti, giving them counsel and exciting them to war; and one of them actually led those black and red combatants to battle. They both officiated as Indian agents, in writing to Spanish Governors and British Ministers, stating their grievances, and soliciting assistance; and sometimes as quartermasters, procuring supplies, and furnishing munitions of war.

Under these circumstances, it is believed that they merited death, whether they were placed upon an equality with the outlawed Red Sticks, or fugitive negroes, who were in a state of open rebellion. Indeed, their criminality was of a deeper dye than that of the Indian chiefs. They were the paymasters for human scalps; and, to discharge that high trust, had exiled themselves from their native land, plunged into the recesses of the wilderness, and groped their way to the Indian camp, for the express purpose of working upon the feelings of the ignorant and untutored savages, to instigate them to lay waste the abodes of industry and innocence, and stain our soil with the blood of slaughtered women and children! Enjoying the light of education, yet devoted to this infamous employment, the active agents in a war which was marked in its progress by plunder and massacre! Should mercy have been extended to wretches who excited such a war, and who, within a short period, would have renewed the same tragical scenes? As associates

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of savages, who respected none of the laws of civilized warfare, they could not claim the benefit or protection of those laws, for they were not parties. They were as much outlaws to all its provisions, as a pirate of the ocean. Such wretches are more criminal than any painted Red Stick; and to pardon them would be treachery to mankind. If, in the ordinary course of justice, it has been deemed wise and politic to take the life of an offender for the murder of a single individual, both religion and humanity must recommend the infliction of the same penalty upon him who has been conspicuously instrumental in the murder of every age, sex, and condition. Although retaliation might have been employed upon the innocent, for such horrid crimes, yet, in these cases, it fell upon the guilty. Let it be borne in mind, that the Indian chiefs and British outlaws were the monsters demanded to be surrendered by the treaty of Fort Jackson, the terms of which had been antecedently settled by the Government, ratified by your honorable body, and carried into effect by the Congress of the United States; and let it also be recollected, that these were the prophets and instigators of the war, upon whom was ordered to be inflicted "exemplary punishment for hostilities so unprovoked."

The two British incendiaries were not executed upon the general charge alone of "exciting the Indians to war," as stated by your committee, but upon that and other general charges subjoined thereto, which they omitted to notice, but which may be seen by a reference to the proceedings of the court of inquiry on that occasion.

The case of Arbuthnot and Ambrister was not within the reach of any rules or articles of war. The rights and privileges here secured belonged only to our own countrymen; and, as the offences charged were committed by foreigners beyond our own territorial limits and jurisdiction, our municipal code contained nothing by which to test the offence. To it the principles of national law was alone applicable, which attached no penalty to their crimes other than death. In organizing the court of inquiry, it was only intended (as in councils of war) that the opinion should operate directory, and as advice, not to become binding. In the second sentence pronounced by the special court upon Ambrister, there was a departure from the rules of that law upon which alone it was believed jurisdiction was had of the offence. Nor was it less a violation of the rules and articles of war; for those rules had denounced corporal punishment. The sentence, therefore, was void, because known to no law. Your respondent, therefore, conceived himself authorized to carry into execution the first sentence, because it awarded the only punishment that was legal to be inflicted; and because his lawless, guilty conduct entitled him to die. Besides, Ambrister was the most criminal. He had commanded, in person, a corps of negroes, with the view of anticipating your respondent in the occupation of St. Mark's, and was actually taken in arms against the forces of the United States.

The General commanding, as in all such cases, possessed the right, by the law of nations, to retaliate and to punish; nor could the organizing of the court deprive him of the power. The court of inquiry derived its existence, and its whole authority, from the order for its organization; and no more could they exercise a power not delegated to them, than could a committee of your honorable body inquire into matters not contained in the resolution which created them. The order calls it a special court, and directs it to perform special duties. It only asks for opinions; and gives no right to carry those opinions into execution. It details a recorder, by which a court of inquiry is ever distinguished from courts martial; the latter having a judge advocate, without which no proceedings can be had, and no sentence pronounced.

Censure was endeavored to be attached, in consequence of the withdrawal of the regular troops from the posts on the Georgia frontier, and concentrating them at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line. In the commission of this military error your respondent had no participation; it was done in pursuance of an order of Mr. Crawford, then Secretary of War; an order which he was bound to obey, although contrary to his own opinion.

Upon the subject of raising and organizing the volunteers of West Tennessee, which has called forth these very animadversions, your respondent did not, as he conceives, "disregard the orders of the War Department, the Constitution, and laws." His orders were, to call upon the Governors of the adjacent States for such additional military force as he might deem necessary to beat the enemy. The order was entirely discretionary, as no number or description of troops were mentioned. In the language of the Secretary of War's letter to Governor Bibb, your respondent was "vested with full powers to conduct the war in the manner he might judge best."

When his appeal was made to the citizens of West Tennessee, the frontier settlements were threatened on every side with danger and distress, as well as our troops at Fort Scott and on the Appalachicola. Major Muhlenberg was endeavoring to ascend that river with provisions, &c., and was arrested in his progress, and surrounded, by eight or twelve hundred Indians. Colonel Arbuckle, commandant at Fort Scott, was also about to abandon his post for want of supplies. The one thousand Georgia militia, who had been called out for sixty days, after advancing forty miles from Hartford, to the neighborhood of Fort Early, were returning home, leaving the command of Colonel Arbuckle, as also the Georgia frontier, in an exposed and perilous condition. Not only from the public journals, but from the communications of Colonel Arbuckle, had this intelligence been received. Under these circumstances, Major Fanning was despatched to Georgia, with a request that the Governor should continue those troops in the field for an additional period, or supply the defi-



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ciency, as early as practicable, by an equal number of volunteers.

As it was not known, at this time, whether the Governor of Tennessee was at Knoxville or in the Cherokee nation, your respondent made his appeal to his old and tried comrades in arms, desiring them to follow him to the field, in defence of their invaded country. In affording the desired relief, no time was to be lost. Delay was replete with danger; and defeat and disaster would have been the result, had the dilatory process of draughting been resorted to. The same day on which the appeal was made, the Governor of Tennessee was written to, and apprized of the attempt to obtain volunteers; and that one thousand draughted militia would be required, should the appeal not be promptly and successfully answered. In reply, the Governor gave his entire approbation to the measure, and co-operated in raising an additional company of mounted volunteers, which was commanded by Captain Dunlap, and which joined the army at Fort Gadsden.

All the volunteers were raised and organized under the laws of Tennessee, the officers of whom were elected by themselves, and not appointed by your respondent, as asserted by your committee. Although earnestly solicited to appoint them, he peremptorily refused. To the officers who had served him in the late Creek and British war, he stated, not only in his appeal, but also upon their meeting at Nashville, that they were to organize themselves in the manner they might think proper; that the grade of the officers was to be determined by themselves; and that those raising companies were to command them. The only agency of your respondent, in the whole transaction, was the appointment of Colonel Hayne, inspector general of the Southern division, to superintend their organization, and lead them to Fort Scott, where he took the command. Every measure touching the raising and organizing this volunteer corps was regularly communicated to the Secretary of War, and received his unqualified approbation.

The committee admit, that the laws of Congress authorize the President to call on the Governors of the different States for such portions of the militia as he may deem requisite; but deny that there is any law in existence vesting him with authority to accept the services of volunteers. Here they have endeavored to make an impression on the nation, that volunteers are not militia; and that the circumstance of volunteering their services, in preference to being draughted, essentially and radically changes their character. There is certainly no position more unsound; as is clearly evinced by the fact, that most of the calls of the General Government have been met in this way, by the patriotic and gallant yeomanry of our country; until now, it has never been complained of.

When a requisition is made by the President on any State in the Union, for a quota of militia, it is sufficient if they are forthcoming; and it is believed that he has no authority, under the laws

or Constitution of the United States, to inquire into the mode in which they have been raised and organized. This is a question to be determined exclusively between the Governor of a State and its own citizens. It is one of the attributes of State sovereignty, guarantied by the Federal Constitution, and with which the Executive and Congress cannot interfere. If an officer of the United States' Army should be guilty of an infringement of this State prerogative, the complaint of its Governor or Legislature should be considered as the only basis to authorize an inquiry into his official conduct.

It is stated by your committee, that it was not found necessary to furnish the President with a list of the names of the militia officers; "and not until the pay-rolls were made out, and payment demanded, were the persons known to the Department of War." A majority of your committee were within reach of all the information necessary to the correction of this error. Colonel Hayne's communications to the Secretary of War were on file in that office; from which they might have been informed of the number and grade of the officers, as well as of every particular relative to the organization of the volunteers; together with the express and decided approbation of that department of the Government. Appended to the report are the pay-rolls, filed in the office of the Paymaster General. Why they omitted to examine the muster-roll in the War Office, from which the pay-roll was transcribed, your respondent is at a loss to determine. Upon an examination of the pay-rolls, they should have known that, agreeably to the rules and articles of war, they must have been made out from the muster-rolls, which designate, by name, the number and grade of the officers mustered into service. The muster-roll, together with the letters of Colonel Hayne, would have satisfied the committee that the volunteers had been organized agreeably to the laws of Tennessee; and that it was a procedure over which the General Government could exercise no control.

By the rules and articles of war, "troops of all descriptions shall be mustered once in two months, for payment; nor shall any payment be made, but upon muster-rolls, signed by the inspector general or his assistant; or, in the absence of these, by some officer of the Army of the United States, especially assigned to this duty by the general or other officer commanding the department in which the troops so mustered shall be."

Again, "the officers and soldiers of any troops, whether militia or others, being mustered, and in the pay of the United States, shall, at all times, and in all places, when joined or acting in conjunction with the regular forces of the United States, be governed by the rules and articles of war, and shall be subject to be tried by courts-martial, in like manner with the officers and soldiers of the regular forces, save only that such courts-martial shall be composed entirely of militia officers."

From these extracts it must appear evident, that no payment can be made, but upon muster-

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rolls, signed by the inspector general, &c.; and that, from the time they are made out and received at the War Office, the militia are considered in the service of the United States. Neither Congress nor the President have any authority to inquire how their officers have been appointed; whether they have been received as volunteers, or raised by the more tedious and vexatious method of draughting. Were the idea of your committee correct upon this subject, the people of the different States would be deprived of the invaluable privilege of selecting between these two modes of complying with the calls made upon them for the defence of our common country. The General Government had the services of those troops, which is all that can be required; and they have long since been mustered out of service, and paid from the public Treasury.

The committee confess that the Secretary of War approbated the manner in which the Tennessee volunteers were raised and organized; but say, that "it is but justice to the Department to state, that it was not until the officers that had assisted in thus officering and organizing this corps were examined by the committee, that they were apprized of the illegality of the measure." Surely, the Secretary of War must have examined the communications of Colonel Hayne and your respondent, stating every particular touching the mode agreeably to which they were raised and organized, as also the muster-rolls, giving the grade and number of the officers by name; all of which were transmitted, and acknowledged to have been received, at an early period, at that office. He certainly could not have compromised himself so far, as to give his approbation to a measure before he was made acquainted with its nature and tendency.

Troops, of the same description of the Tennessee volunteers, were received and employed by the Government, on our northern frontier and southern borders during the late struggle with England, and in the war with the Creek nation of Indians. They fought the battles of Talladege, Emuckfaw, the Horseshoe, and New Orleans, and protected Mobile from British visitation. Volunteers, similarly raised and organized, were commanded by Governors Shelby, Harrison, Edwards, and General Porter, of New York, during the same period. The field officers of the Georgia militia were appointed in the same manner on the west bank of the Oakmulgee; and one of the present Senators from Tennessee actually appointed the officers of his own regiment, which he raised without any authority, and which he commanded on an expedition against the Seminole Indians, in 1812. The most of these troops were paid off by the United States, received the approbation of the General Government, and the applause of the nation.

It is stated in the report of the committee to the Senate, that the "whole strength of this miserable, undisciplined banditti of deluded Indians and fugitive slaves, when combined, did not exceed one thousand men. Opposed to whom, previous to General Jackson's taking command,

and under General Gaines, were a force of one thousand eight hundred regulars and militia, besides the one thousand five hundred friendly Indians illegally subsidized by the last mentioned General; what, then, in this case, becomes of the plea of necessity?" It is plainly to be inferred, then, that this motley horde of negroes and Indians were too inconsiderable to justify raising the volunteer force which was employed in reducing them to a state of submission.

It is well known to all those acquainted with the character of Indians, and their peculiar mode of warfare, that it is almost impossible to form a correct estimate of their aggregate force, until the termination of the war. In this case, General Gaines had computed them at two thousand eight hundred; and Arbuthnot, who officiated as a military chief of the savages, had represented them, in a communication to the British Minister, Mr. Bagot, to be three thousand five hundred strong. This calculation was by no means extravagant, when it is considered that from eight to twelve hundred had been concentrated at a single point, when Lieutenant Scott and party were attacked, and that they were daily increasing in number. Whatever might have been their whole effective strength, at any period of the war, it could have been augmented by auxiliary bands in Florida; and it was certainly the duty of the commanding General to call out such additional force as should insure success in every emergency. Furthermore, the greatest portion of the Georgia militia, then in the field, could be retained in service only for about three months. And it was expected that they would apply for discharges so soon as their time expired. Your respondent considered the lives of our citizens as too precious to be risked, in a contest with Indians, where there was an odds of two to one, unless dire necessity demanded the exposure. The consequence of an opposite policy was, that the decisive and rapid movement of our overwhelming numbers distracted and dispersed the enemy, compelled them to seek refuge in the Spanish fortresses, woods, and swamps; and they never were afforded an opportunity to display their whole force by concentration. The war was speedily and effectually terminated, and much blood and treasure saved to the nation.

With regard to the Indian and militia force, under the command of General Gaines, previous to the time your respondent assumed the command of the army, he has to remark that, until a few days anterior to his arrival at Fort Scott, not a single Indian warrior had joined the standard of the United States; nor had the first requisition of Georgia militia ever united with the command of General Gaines; the latter had returned home, in consequence of which it became absolutely necessary, on the part of General Gaines, to make a second call on the Governor of that State, for the double purpose of defending the frontier and occupying Amelia Island.

A few of the friendly Indians joined your respondent before he reached Fort Scott, and a considerable number at that place, making, in the

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aggregate, about four or five hundred. The balance of the force under his command was not, at that time, more than nine hundred effectives; and he confidently affirms that, when he took up the line of march from Fort Gadsden, on the 25th of March, 1818, his whole command, fit for duty, consisted only of three hundred and sixty privates of the regulars, about eight hundred Georgia militia, and Major Lovet's detachment of friendly Creeks. McIntosh and his warriors were organized at Fort Mitchell, after the arrival of your respondent at Fort Hawkins, and never united with him until the 1st of April, about six miles in the rear of Mickasuky. All these facts were accessible to your committee, had they been disposed to examine the letters of your respondent on file in the Department of War. To this Department all his communications were made; and there they should have applied for correct information, if it had been wanted.

The next subject which has exposed your respondent to bitter reproach from the committee, is the order which was directed to General Gaines, to occupy St. Augustine. A letter from Major Twiggs had conveyed the intelligence that our savage enemies had been fed and furnished from that garrison; and it was rendered highly probable that, aided, abetted, and encouraged, by the commandant, they were recruiting and embodying at that place, with a view of renewing hostilities. A strong presumption was created, that this, like the other Spanish posts, had become a depot and rallying point for negroes and Indians, to which they had retreated for refuge and protection, after being driven from Negro Fort, St. Mark's, and Pensacola.

The order given to General Gaines was entirely conditional and *prospective*; and had the facts reported been established, as directed, there would have existed the same incontrovertible reason for the occupancy of St. Augustine as of the Spanish fortresses. The orders of your respondent had undergone no modification; and the measure would have been indispensably necessary to their execution, as well as to the peace and security of our frontiers. Besides, he had transmitted to the War Department regular information of his proceedings in Florida, with the reasons and motives by which he had been governed, from the 25th of March to the 7th of August, without a sentence of dissatisfaction ever having been expressed by the Government.

Your committee also report that, "long before this period, the commanding General had, by his letter to the Secretary of War, declared the Seminole war at an end; and, after which, not a single new act of hostility had been committed." It is true, after the defeat of the negroes and Indians at Mickasuky, the destruction of Suwanee, and the asylum of St. Mark's had been wrested out of their occupation, that your respondent persuaded himself that the war was ended. But subsequent information proved this opinion to be erroneous. The letter of Governor Bibb, appended to the report of the Senate, as well as the deposition of Charles Baron, details

sundry outrages committed subsequent to the date of your respondent's letter to the Secretary of War; and it is also known that *six men were murdered in the interior*, which it is believed was communicated by General Gaines to the War Department. The communications of General Gaines and Major Fanning, annexed to the report, also give a very different aspect to this question, and to which your respondent begs leave to refer your honorable body.

In the animadversions upon the motives of your respondent, he cannot withhold the opinion that there has been exhibited an unusual share of asperity, as also a want of charity and forbearance, which was not to have been anticipated from members of so august and enlightened a body as the Senate of the United States, deliberating upon a subject which they have represented to be of great national magnitude. Leaving the motives of the committee on this occasion to their own private review and examination, your respondent will barely observe that they have imperfectly recognised the maxim that innocence is always presumed until the contrary appears by proof. Why they should have inquired into the motives of your respondent at all he is at a loss to determine, as it was a matter entirely beyond their control and jurisdiction. The only subject of investigation was the legality of his official acts, as designated in the resolution of the Senate of the 18th of December.

Your respondent has no objection to this course, except as a pernicious precedent, and a violation of authority. He has no secrets, and will never shrink from a rigid and impartial examination into his official conduct. Had the committee adverted to the order to take possession of St. Augustine, as well as the communications of your respondent to the Secretary of War upon the subject of his military operations, they must have been satisfied that his motives were to promote the public good; to obey his orders, by carrying on a vigorous and efficient war against the savage enemies of the United States, by which the blood and treasure of the nation was to be economized; to establish a peace that would be honorable and permanent, and to give repose and security to our exposed and defenceless borders.

In this instance, as well as in some others, the report of the committee is contradicted by the evidence of its own documents. The depositions of Colonel Butler and Major Eaton (a member of the committee) conclusively prove that your respondent had no agency in speculating in Florida lands, which is in direct opposition to the inference drawn by your committee. No member of that committee can, for a moment, seriously and candidly harbor the opinion that your respondent would lead a gallant army into the field, jeopardize the lives of valuable citizens, risk the ruin of health and reputation, and "violate the Constitution" of his country, for the purpose of speculating with security in Spanish lands. The "motives of his own, unconnected with his military functions," were, a desire to end speedily a savage war, and to save the blood and treasure of

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the country; and not, as charged, to adventure his health and reputation, and the lives of brave men, in quest of titles to Florida lands. The imputation is unwarranted and unjust, and has its refutation in the very testimony which the committee have published. The dignity of his office, which, at every exposure, he has sought to maintain, never has been prostituted to the purposes of speculation in any way, and it never shall. Strange, then, that honorable men should make so foul an accusation without proof, nay, without even circumstances to support it.

Your respondent would beg leave, in this place, to remark upon the depositions annexed to the report. He ventures the opinion that such documents never before have been published to the world as evidence upon which to predicate a report. Eaton's and Mitchell's are the only depositions presented in legal form. To those two gentlemen regular interrogatories were proposed, to which they deliberately responded and affixed their signatures, as required by law; Doctor Bronaugh's deposition is signed, but not given under oath; Colonel Butler's, Colonel Gibson's, and Captain Call's, are neither sworn to nor signed. The depositions of the last four gentlemen were published without their knowledge, although they had received a promise from the members of the committee who took down the testimony that it should be copied, and again submitted to them for correction and signature.

Until depositions are fully examined, amended, and signed by the witnesses, they cannot be considered good and complete evidence. This is a rule which, it is believed, is uniformly adhered to in all judicial tribunals; it never should be departed from on any occasion, as it is essentially necessary to an impartial administration of justice. Every opportunity should be given the witnesses to make a fair and full disclosure of the facts; to consider the force and effect of their expressions, as well as the import of every sentence. By an opposite procedure, irreparable injustice may be done, and the rights of a public agent sacrificed by those who should afford him security and protection.

There are several minor points touched upon by the committee, to which your respondent considers it unnecessary to give a particular reply, as they are of inconsiderable importance, and could not be noticed without swelling this memorial to an unwieldy size. He flatters himself they have been satisfactorily answered in the discussion of the other subjects out of which they have incidentally arisen. They will all, however, be more amply and minutely explained by an examination of the documents heretofore communicated to Congress relative to the Seminole war, to others on file in the War Office, and to those accompanying this memorial; to all of which your respondent respectfully refers your honorable body.

To conclude: your respondent has devoted his best services to the cause of his country, and to the perpetuation of her liberties. Her Constitution and laws are objects of his sincere veneration,

and every anxiety of his heart has been enlisted to promote the glory and happiness of his country. How far he has been instrumental, under the guidance of Providence, in effecting those desirable objects, he submits to the decision of his enlightened fellow-citizens. He does not pretend to be exempt from the errors common to human nature. Surrounded as he was by every privation and embarrassment, in all the hurry and bustle of war, it was next to impossible to attend particularly to every minor consideration. But, upon the great errors charged—a breach of his orders, a departure from the Constitution, and a violation of the rights of humanity—he openly maintains his innocence, and denies that the charges are correctly made. He calls upon the Senate, by the high claims they prefer to unanimity, to protect his reputation from the unmerited censure cast by their committee. He asks for justice, and nothing more; to extend it is due to your respondent, to the Senate, and to the nation.

ANDREW JACKSON,  
*Major General com. Southern Div.*

WAR DEPARTMENT, *March 24, 1814.*

SIR: Since the date of my last letter it has occurred to me that the proposed treaty with the Creeks should take a form altogether military, and be in the nature of a *capitulation*; in which case, the whole authority of making and concluding the terms will be in you, exclusively, as commanding General. In this transaction, should it take place, Colonel Hawkins, as agent, may be usefully employed.

I am, very respectfully, &c.

JOHN ARMSTRONG.

Maj. Gen. PINCKNEY.

True copy.

R. K. CALL, *Aid-de camp.*

WAR DEPARTMENT, *May 24, 1814.*

SIR: In the event of your acceptance of the appointment suggested by my letter of the 22d instant, I have to suggest the wish of the President that you should proceed, without delay, to Fort Jackson, and consummate the arrangements committed to Major General Pinckney, in relation to the hostile Creeks. A copy of the instructions given to General Pinckney is enclosed.

JOHN ARMSTRONG.

Major Gen. JACKSON.

True copy.

R. K. CALL, *Aid-de-camp.*

WAR DEPARTMENT, *March 17, 1814.*

The policy dictated, as well by the unprovoked and ungrateful conduct of the hostile Creeks, as by a due regard to the future safety of the Southwestern frontier, may be brought under the following heads, viz:

1st. An indemnification, (for expenses incurred

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by the United States, in prosecuting the war,) by such cession, or cessions of land, as may be deemed an equivalent for said expenses.

2d. A stipulation on their part that they will cease all intercourse with any Spanish post, garrison, or town; and that they will not admit among them any agent or trader who does not derive his authority or license from the United States.

3d. An acknowledgment of a right in the United States to open roads through their territory; and also to establish therein such military posts and trading houses as may be deemed necessary and proper; and

4th. A surrender of the prophets, or other instigators of the war, who will be held subject to the orders of the President.

With these outlines as your guide you are authorized, in conjunction with Colonel Hawkins, to open and conclude a treaty of peace with the hostile Creeks, as soon as they shall express a desire to put an end to the war.

I am, sir, very respectfully, &c.

JOHN ARMSTRONG.

Major General PINCKNEY.

True copy.

R. K. CALL, *Aid-de-camp.*

I, James Gadsden, a captain in the army of the United States, on oath declare, that during the whole period in which the transactions below detailed took place, I was an aid-de-camp to Major General Andrew Jackson, and that the following narrative contains a true statement of facts to my knowledge:

Early in January, 1818, General Jackson received orders from the War Department to repair to Fort Scott, assume the command of the army, and to bring the conflict with the Seminole Indians to a speedy termination. The Secretary of War stated the enemy's force to be two thousand seven hundred, or two thousand eight hundred strong, and gave authority to the General to call, from the neighboring States, such a force as would insure the desired object. The regular brigade under General Gaines, did not, according to the last reports, exceed six hundred men. He had called upon Georgia for not more than one thousand two hundred militia; and it was uncertain at that period whether the friendly Creek warriors would accept the invitation tendered. Some additional force was therefore deemed necessary, and the speediest mode of raising it was a subject of solicitude to General Jackson. Governor McMinn, of Tennessee, was engaged about this period in carrying into effect a treaty with the Cherokee nation; and it was a matter of great uncertainty whether a letter would find him at his usual place of residence, near Knoxville, or not. He was not at the capital of the State; and his friends in and about Nashville were generally under the impression that he was still in the Cherokee nation. General Jackson determined therefore to make an appeal to his old companions in arms; many of whom held

commissions in the militia of the State. His circular to these men, and his letter to the Governor, notifying him of what he had done, have been published.

I was present at the meeting of field officers of the volunteers at Nashville, and heard no remarks of General Jackson calculated to control or influence them in the selection of their officers. The only subject of anxiety with him appeared to be that the men should be raised by the first of February. He desired that the number should be completed; that the men should be satisfied with their officers; that they should rendezvous at Fayetteville; be mustered into service, and overtake their General on the frontiers of Georgia. Colonel Hayne, inspector general, was instructed to command the detachment on their march to Fort Scott. He received authority to appoint no other officers than those attached to his personal staff; a privilege enjoyed alike by regular and militia commanders. The Nashville company elected their own officers; and the Kentucky company was raised without even the knowledge of General Jackson. Their own feelings led them into the field upon the mere knowledge of the fact that the frontier was exposed to Indian aggressions.

I accompanied General Jackson through a part of Tennessee, previous to his departure South. In every village we passed through, much interest was taken in the approaching campaign; and the citizens were generally inquisitive as to the nature of the appeal to their patriotism. I was directed by General Jackson to explain its character; and, in every instance, expressed but one opinion, as derived from him; that one thousand men were wanted to put a speedy close to the Seminole war; that, in consequence of the confidence which the General had in his old comrades in arms, and the facility with which volunteers could be raised, he had made this appeal; that they must be satisfied with their commanders, and elect their own officers. On this subject I found many individuals exceedingly scrupulous. They were assured that no intention was entertained to impose commanders on them; that the men were wanted, and the General was well aware that, to be efficient, they must be contented with their officers.

General Jackson left Nashville with one company of Tennesseans. A company of Kentuckians overtook him in the Cherokee nation; and the Tennessee brigade had orders to join him, as soon as organized, on the frontiers of Georgia. From Hartford Gen. Jackson moved with the Georgia brigade, and was reinforced, on his march to Fort Scott, by about six hundred friendly Creeks.

From Fort Gadsden, where the operations of the campaign may have been said to have commenced, the movement was made with a force of regulars, Gergians, and Indians, not exceeding two thousand men. The strength of the enemy was not known, at this time, to be less than that stated by the Secretary of War, two thousand seven hundred. A detachment of Tennes-

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seeans, and General McIntosh's warriors, overtook the army on the morning of the attack on the Mickasuky villages; and all the troops called into the service were not finally concentrated until the day after the movement from St. Mark's towards the towns on Sahwannee river. The actual force of the enemy was never ascertained, until their final dispersion from the Sahwannee river. Rumor often magnified their strength beyond that stated by the Secretary of War.

The demand of the surrender of St. Mark's was made in amity. General Jackson received intimation that the Indians and negroes, combined, wished to throw themselves into that work, as a dernier retreat; and the Governor of Pensacola had stated that the work and garrison were both too weak to resist their meditated attacks. I was intrusted with the communication to the Spanish commandant of St. Mark's, and directed to urge the propriety of an amicable permit for the fort to be occupied by an American garrison, until the close of the war, on the ground that the Seminole Indians were enemies to both nations; and that every facility should be afforded the American arms in closing a war so injurious to both parties. In the course of the negotiation facts disclosed themselves developing the real character of the Spanish commandant, and, in a measure, implicating him as a party in the war. These facts were reported to the General; and, not until then, was the order issued for entering the fort by violence.

On the return of the army to Fort St. Mark's, from the towns on the Sahwannee river, General Jackson expressed to me his determination to return to Nashville, conceiving that the war was closed. On the next day information was given, by the captain of a small schooner from Pensacola, that hostile Indians were lurking about that town; that they had frequently sought refuge to the west of the Appalachicola river, and were committing depredations on the road leading from Georgia to the Alabama. On this information General Jackson observed, that it would be necessary to leave strong garrisons in St. Mark's, Forts Gadsden, and Scott, and send a party to scour the country west of the Appalachicola; but he still expressed his intention to return to Nashville. So well persuaded were the officers, generally, that all operations were over, that many of them sought leave of absence. An officer attached to General Jackson's staff, as volunteer aid-de-camp, left him at this place for New Orleans. Previous to his departure, he was told by General Jackson that his services would no longer be necessary, as he was determined to return to Nashville.

Lieutenant Sands was not sent to Mobile to forward on a train of artillery to a given point. This officer had commanded for many years in Mobile; and, being attached to the place, expressed a wish to visit it, with a view of being reinstated in the command, if possible. His request was granted, and he received an order, at the same time, to have a few pieces of ordnance in a condition for field service. Colonel Gibson

received instructions, subsequently, from Fort Gadsden, to have the artillery, ammunition, provisions, &c., transported to Fort Montgomery.

On the return of the army to Fort Gadsden, General Jackson received a reply from the Governor of Pensacola, to his letter relative to provisions ascending the Escambia river. At the same time letters were received by individuals, and further information from the captain of the schooner, that Pensacola was under the control of the Indians; that more than four hundred warriors were in the vicinity, preparing for the renewal of hostilities on the Alabama frontier. Major Hogan, who had recently arrived from Fort Montgomery, reported some murders lately committed by Indians direct from Pensacola, and who had returned with their plunder and scalps to that place. On the receipt of this information, General Jackson observed to me that he must himself command the troops destined to scour the country west of the Appalachicola. He did not at that time intimate an intention of occupying Pensacola. To give security to the frontiers of Alabama was his object; and that his operations must be governed by circumstances which might occur.

On the third or fourth day of March, an express was sent to Colonel Gibson, at Fort Montgomery, to endeavor to join the army with the artillery and provisions, at or near Durand's Bluff, the lower crossing place on the Escambia.

At this place a letter was received, by express, from Governor Bibb, detailing the murders which had been committed by hostile chiefs from Pensacola; and the next day after the army had crossed the Escambia, the protest of the Governor of Pensacola was received. The bearer was despatched with a note, promising a reply to the protest that night. The same day I was sent to Pensacola with a reply. The Governor had left his capital. The next day the communication demanding the occupancy of Pensacola and its dependencies, until Spain should control, by an adequate military force, the Indians within Florida, was delivered to the Governor at the Barancas; and on his refusal to accede to the terms of that communication, the army took up its line of march for that place. The result is known.

The plan of St. Augustine was sent to General Jackson at my request, and is now in my possession. As an engineer attached to the Seminole army, it was my duty to be prepared for any events, by obtaining accurate knowledge of the country which might be the scene of operations. I did not request the plan of the proprietor, from any intimation from General Jackson that he intended or wished to visit that fortress.

JAMES GADSDEN.

True copy: R. K. CALL, *Aid-de-camp.*

STATE OF LOUISIANA,  
*City and Parish of New Orleans:*

Be it known that, on this 30th day of June, 1819, before me, John Lynd, notary public in and for said city and parish, duly commissioned, personally appeared James Gadsden, who in my pre-

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sence signed his name to the foregoing instrument of writing, and, having been duly sworn, deposed that the contents thereof are true and correct. In faith whereof I grant these presents, under my signature and seal of office.

JOHN LYND, *Notary Public.*

Mr. Sebastiano Caro, a citizen of Pensacola, being sworn, states that, being in Mobile during the early part of the Seminole campaign, he knew nothing of the Indians being at that time in Pensacola; that in the Spring of 1814, about two hundred Indians were in Pensacola, and it was generally understood by the citizens, and believed by them, that those Indians procured ammunition and provisions from the public stores, for the purpose of carrying on their depredations on the American frontier; and that this proceeding was much commented on by the citizens, and generally condemned. Mr. Caro did not himself see ammunition and provisions issued to the Indians; but it was a thing of public notoriety.

SEBASTIAN CARO.

A true copy:

R. K. CALL, *Aid-de-camp.*

Sworn and subscribed to before me, at Pensacola, September 7, 1818.

H. YOUNG, *Capt. Top. Eng.*

Jose S. Caro, a citizen of Pensacola, being sworn, states that, early in the present year, 1818, a party of hostile Indians were in Pensacola, their numbers not known, but probably fifty; that, on hearing of the approach of the American army under General Jackson, the Governor of Pensacola furnished those Indians with provisions and ammunition, and sent them in public boats across the bay. The deponent saw the rations issued, and the party embarked. The deponent further states, that, subsequent to this, he saw three parties of hostile Indians furnished with provisions, the ostensible object of which was, to enable those Indians to march to the interior, and give themselves up; but it was generally believed, that those Indians had no such intention. The deponent saw those Indians set out, and states that they had their arms.

JOSEPH ESTEEVEN CARO.

A true copy:

R. K. CALL, *Aid-de-camp.*

Sworn and subscribed to before me, at Pensacola, September 10, 1818.

H. YOUNG, *Capt. Top. Eng.*

Charles Baron, a resident of Pensacola, being sworn, states that, about the latter end of April or beginning of May, 1818, a party of Indians, amounting to near one hundred, were in Pensacola, with a quantity of plunder, which, it was generally believed, was taken at the time Stokes's family were murdered on the Escambia. The Indians sold this plunder, openly, to the inhabitants of Pensacola; and the deponent could not learn that the Spanish authorities at Pensacola

made any inquiries respecting it. The deponent further states, that, at several times in the present year, 1818, he saw parties of Indians furnished with provisions and ammunition, from the King's stores; but he does not recollect the dates of these transactions.

The deponent further states, that he has frequently heard Spanish officers at Pensacola justify the conduct of the Indians towards the United States, manifesting, in their conversation, a decided hostility towards the Americans.

CARLOS BARON.

A true copy:

R. K. CALL, *Aid-de-camp.*

Sworn before me, at Pensacola, September 13, 1818.

H. YOUNG, *Capt. Top. Eng.*

Pierre Senac, being solemnly sworn, declares as follows: That he has resided in the town of Pensacola constantly since the month of November last past; that, since that time, and until the arrival of Major Young near this town, there were always considerable numbers of hostile Indians in or near the town; that, on many occasions within that period, he has seen from one hundred and fifty to two hundred Indians here; that their forces were regularly provisioned from the King's store here; that he has seen large quantities of sheet lead in possession of the Indians, and considers it as greatly resembling the lead aprons of cannon; that the Government must have furnished the lead in question, as there were no other means here of getting such lead; and that the said lead was run off into balls, which the deponent saw.

That on the day that Major Young attacked a party of Indians near this town, there was then in town a considerable number more, who were set across the bay, in boats provided for that purpose, by the Spanish Governor.

Deponent further states, that, about the 1st of March last past, three considerable parties of hostile Indians, one party under the command of Leon Lesassier, another under the command of Arnaud Gilmar, (both lieutenants in His Catholic Majesty's service,) and the third commanded by an Indian chief, retired out of this town, and went down towards the neighborhood of Barancas, where provisions and ammunition were regularly supplied to them by the Spanish Government; that the said Indians were armed with guns, which they had received from the English during the late war; and that they remained encamped within from one to three leagues from Barancas for the space of nearly a month; that these Indians, besides being armed with guns, had also tomahawks, which deponent understood and believes were furnished by John Inerarity; and that, when the Government caused the said parties to be thus assembled and equipped, they were collected at Barancas, for the purpose, as deponent conceives, to elude the vigilance of such individuals in Pensacola as would not concur in such measures.

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Deponent further states, that, since the said month of November last past, he has seen brought in here, by the Indians, a quantity of cottonade and women's clothing, brought, or said to have been brought, from the American frontier; that these things were publicly sold in this town, notwithstanding it was notoriously known here that those articles and property had just been taken from those whom the Indians had killed on the American frontier.

PEDRO SENAC.

Attest: J. B. ROBINSON, *Interpreter.*

PENSACOLA.

Sworn to and subscribed before me, this 19th day of September, 1818.

M. MCKINSEY, SEN., J. P.

I, Isaac McKeever, a lieutenant in the Navy of the United States, on oath declare, that the following narration contains a true statement of facts, to the best of my knowledge. I commanded the naval force which conveyed the store-ships, transports, &c., from New Orleans to Fort Gadsden, and from thence to the bay of St. Mark's during the Seminole war. I arrived in the said bay on the 1st of April, 1818, with British colors flying at my masthead; on the next day I was visited by a Spanish lieutenant, the second in command at Fort St. Mark's. The lieutenant was inquisitive as to the character of my vessels and the nature of my visit, and wished to know whether I had any authority from the Captain General of Cuba for entering the territories of His Catholic Majesty. In reply, I asked him if he had seen my colors on entering the bay of St. Mark's, and intimated that the nature of my visit could not be satisfactorily explained until the arrival of Captain Woodbine, at the same time intimating that it was of an illicit character, and that succor, aid, &c., to Hillis Hajo and his warriors, in their present distress, was intended. At the mention of this he expressed much satisfaction, stated that Captain Woodbine and the Spanish commandant of St. Mark's were good friends, and voluntarily gave me every information as to the movements of General Jackson's force, and his strength; the situation of the hostile Indians he detailed at length, and stated what rejoicing the reception of the long promised and expected succor would occasion. He stated that Hillis Hajo and the Spanish commandant were on intimate terms; that the former was then in the vicinity, and had lately been at the fort of St. Mark's, when he had urged, with menaces, the commandant to send on board to ascertain to demonstration the character of the strangers; and, having satisfied himself, he would see Hillis Hajo that evening, after which we might expect a visit from the latter, who accordingly came on board the following morning. He likewise informed me that Arbutnot, a friend to the hostile Indians, and an acquaintance of Woodbine's, was in Fort St. Mark's. On my expressing to him some apprehension of being blockaded by an American squadron reported to be on the coast,

or of my retreat being cut off by Jackson, he replied, that the latter was impossible; that Jackson had but five pieces of artillery, and the impracticability of the swamp would prevent his assuming any position below me; but that I need apprehend no danger from any quarter; that, as allies, by anchoring under the guns of the fort, protection would be afforded me.

About this time we were informed by the Spanish officers and Indians who came on board, that, on our arrival within the bay, the Indian camp demonstrated much joy at the approach of their expected supplies of munitions, &c.

I. McKEEVER.

NEW ORLEANS, June 5, 1819.

Sworn this 5th June, 1819.

DOM. A. HALL,

*Dist. Judge U. S. Louisiana Dist.*

*The following statement is made by request:*

About the 1st of May, 1818, I was sent by the officer commanding at New Orleans in charge of a public transport schooner, with provisions for the garrison at Fort Crawford, with orders to touch at Pensacola, and obtain permission of the Governor of that place to ascend the bay of Pensacola and the Escambia river, through the Spanish territory, to my destination. I arrived at Pensacola on the 16th of May, and immediately reported the schooner, her cargo, and destination, to the Governor; notifying him, at the same time, of my wish to proceed without delay. On the 18th the Governor informed me that he was not authorized to let the provisions proceed without the payment of a transit duty of two per cent., and required an invoice of the cargo to be rendered at the custom-house, in order that an estimate might be made of the duties imposed. I remonstrated with him against the payment of duties on public supplies, on board a public vessel, and designed for public service; and urged a free passage as an act of friendship only, which neighboring nations at peace were bound, in common justice, to extend to each other—all without avail. Fort Crawford being then short of provisions, I was forced by necessity to accept the passage on the terms offered; and, accordingly, entered the cargo at the custom-house, and paid the duties required into the royal treasury.

I inquired of the Governor whether transports, charged with public supplies, and destined for Fort Crawford, would thereafter be suffered to pass Pensacola free of the duties imposed in the present instance; and was informed that a categorical answer could not then be given to the inquiry, as the Captain General of Cuba had not yet given a decision on that point, and whatever he might resolve would be communicated.

When the transport came to anchor in the port of Pensacola, I distinctly discovered several groups of Indians on the water's edge; and, aware of the impotency of the Spanish authority, I was apprehensive I should not be permitted to land in safety. Before I was ready to leave the vessel, however, the Governor's aid came on board, and



*Defeat of the Seminole Indians, &c.*

before we reached the shore the Indians had mostly disappeared. I was afterwards informed that, at the time the transport came to anchor, there were upwards of a hundred in the town, who immediately retired to the neighboring woods by order of the Governor. I was further informed, by a respectable citizen of Pensacola, that, a few days preceding my arrival, a considerable number of Indians, who had taken refuge in that place, had been transported, by the Governor's authority, to St. Rose island, on the opposite side of the bay.

The undersigned certifies, upon honor, to the correctness of the substance of the foregoing statement.

T. CROSS, *Capt. U. S. A.*

WASHINGTON CITY, Feb. 1, 1820.

I was Quartermaster General of the southern division on the Seminole campaign. At Fort Gadsden I received orders to proceed to Mobile and Fort Montgomery, for the purpose of forwarding supplies to the army, then on its march west. From Mobile I sent the schooner *Little Sally*, Captain Pastes, loaded with provisions, to the Perdido river, with instructions to remain there until the approach of the army, or until further orders. Two days after we arrived at the Barancas, Captain Pastes joined, and informed us, that his vessel had been taken by a Spanish launch near the mouth of Perdido, and brought under the guns of the Fort Barancas, and detained several days. This was confirmed by several Spanish officers after we took possession of the fort.

I certify, on my honor, to the truth of the above statement.

G. GIBSON,

*Late Q. M. G. of Southern Division.*

WASHINGTON, Feb. 1, 1820.

NAVY DEPARTMENT, March 27, 1818.

SIR: In the present state of hostilities between the Indians and the United States, your aid and co-operation may be required by the General commanding the United States army in the South; you will therefore afford all the aid and support in your power, and keep up a correspondence for this purpose.

Despatch immediately two gunboats and two of the smaller vessels to Mobile and to the Apalachicola, to protect the convoys of supplies, and to remove any obstructions to a free communication between the forts and forces of the United States. It will be your duty also to adopt such further measures as the circumstances of the case or the development of events may render necessary.

B. W. CROWNINSHIELD.

P. S.—Commandant J. D. Henley is also ordered to send one of the small vessels of his squadron to the Apalachicola, which vessel will be subject to your order.

Com. D. T. PATTERSON,

*Com. Naval Station, N. O.*

A true copy: R. K. CALL, *Aid-de-camp.*

15th CON. 2d SESS.—74

HEADQ'RS, DIVISION OF THE SOUTH,  
*Adj't Gen's Office, Fort St. Mark's,*  
April 26, 1818.

GENERAL ORDER.

The following detail will compose a special court, to convene at this post, at the hour of 12 o'clock, M., for the purpose of investigating the charges exhibited against A. Arbutnot, Robert Christy Ambrister, and such others who are similarly situated, as may be brought before it. The court will record all the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoner, and what punishment, if any, should be inflicted.

DETAIL.

Major General E. P. GAINES, *President.*

*Members.*

Colonel King, 4th infantry.

Lieut. Colonel Gibson, Tennessee volunteers.

Major Montgomery, 7th infantry.

Colonel Dyer, Tennessee volunteers.

Lieut. Colonel Elliott, Tennessee volunteers.

Major Minton, Georgia militia.

Colonel Williamson, Tennessee volunteers.

Major Muhlenburg, 4th infantry.

Captain Vashon, 7th infantry.

Lieutenant Colonel Lindsay, corps of artillery.

Major Fanning, corps of artillery.

Captain, Crittenden, Kentucky volunteers.

Lieutenant J. M. Glassell, 4th inf., *Recorder.*

An orderly will be detailed from Gen. Gaines's brigade, and the court will sit without regard to hours.

By order of Major General Jackson:

ROBERT BUTLER,

*Adjutant General.*

A true copy:

R. K. CALL, *Aid-de-camp.*

WAR DEPARTMENT, Oct. 2, 1816.

SIR: Your communication of the — ultimo, with its enclosures, have been received, and submitted to the President, as well as my letter of the 27th ultimo to you.

Since the date of that letter information has been received directly from Spain, which gives additional force to the impressions entertained in relation to Colonel Jesup's communications. The improbability of the information given by that officer will not, in the opinion of the President, justify any arrangement which is calculated to produce public excitement.

A judicious disposition of the force under your command, with a view to meet an event of that nature, is all that is considered necessary at the present moment, except the transportation of the arms and munitions of war to the menaced point of attack, which such a measure renders indispensable.

These dispositions you will carry into execution agreeably to the instructions contained in my letter of the 27th ultimo, with such modifica-

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tions as the actual state of the posts, and a true regard to the public interest may require.

I have the honor to be, &c.

WM. H. CRAWFORD.

A. JACKSON, *Major Gen., &c.*

A true copy from the original.

R. I. EASTER, *A. D. C.*

*Extract of a letter from William H. Crawford, Secretary of War, to Major General Andrew Jackson, dated 27th September, 1816.*

The destruction of the Negro fort, at the junction of the Appalachicola and Flint rivers, may have removed the necessity of keeping up so large a force in that quarter. It must, however, be admitted, that every means of exciting those Indians to hostility will be resorted to in the event of a Spanish war. But even in that event, it is questionable whether we should keep so large a portion of our active force pent up in a fort, acting on the defensive, when, in fact, there is nothing worth defending. The militia of Georgia would be competent to the chastisement of the hostile Indians in that quarter. If the danger becomes more threatening, all the posts in the interior of the Indian country may be occupied by the militia of that State and Tennessee, so as to admit of the assemblage of the whole regular force at the point immediately menaced. Your knowledge of the situation of the posts within your command, will enable you to adopt the necessary measures to secure the object presented in this communication.

In withdrawing forces from posts now occupied, you will keep in view the preservation of the military stores which may have been deposited in them, which can only be done by transporting them with the troops, or by leaving a sufficient number of them for their protection, until the post can be manned by the militia, or troops brought from the northern division.

True copy: R. K. CALL, *Aid-de-camp.*

HEADQ'RS. DIVISION OF THE SOUTH,  
*Nashville, January 20, 1818.*

SIR: I have received your letter of the 18th ultimo, and have to regret the situation in which you are unfortunately placed. Every effort will be made, however, to relieve you. I shall leave this place for Fort Hawkins on the 22d, and two regiments of mounted volunteers will rendezvous at Fayetteville, Tennessee on the 31st instant, and proceed, by forced marches, direct to our southern frontier.

The commanding officer of the Georgia militia has instructions this day not to invite a general engagement with the Indians, but at all hazards to aid you in relieving Major Muhlenburg.

ANDREW JACKSON,

*Maj. Gen. Com'g Div. of the South.*

Col ARBUCKLE, *Com'g at Fort Scott.*

True copy: R. K. CALL, *Aid-de-camp.*

*Extract of a letter from Major General Jackson to Brevet Major General Gaines, dated*

HEADQ'RS, NASHVILLE, Aug. 17, 1818.

DEAR SIR: I am happy to find that the notorious Mecodicoxy is at length destroyed. The distresses of the Indians for provisions I expected. Your providing for their wants meets my entire approbation. It will meet the full approbation of the Government, as it corresponds with their usual humanity, always extended to the suffering Indian.

I have noted with attention Major Twiggs's letter, marked No. 5. I contemplated that the agents of Spain, or the officers of Fort St. Augustine, would excite the Indians to hostility, and furnish them with the means. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of the fort of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to, take, and garrison, with American troops, Fort St. Augustine, and hold the garrison prisoners, until you hear from the President of the United States, or transport them to Cuba, as in your judgment, under existing circumstances, you may think best.

Let it be remembered, that the proceedings heretofore carried on by me, or this order, is not on the ground that we are at war with Spain; it is on the ground of self-defence, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontier. Hence the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war. This evidence being obtained, you will (if your force is sufficient) permit nothing to prevent you from reducing fort St. Augustine, except a positive order from the War Department.

Orders, some time since, have been given to officers of the ordnance commanding at Charleston, to have in readiness a complete battering train, the number and caliber of the guns pointed out; I have no doubt but that you will find them in readiness. I enclose you the report of Captain Henley, of the naval force on that station; you will open a correspondence with Commandant A. J. Dallas, to insure his co-operation, provided it should be required.

I trust, before this reaches you, you will have destroyed the settlement collected at Suwanee. This can easily be done by a *coup-de-main*, provided secrecy be observed, and great expedition of march used; without expedition of movement, and great secrecy is observed, you will be discovered, and the enemy will either flee or endeavor to ambuscade you; both of which ought to be guarded against.

Have a careful eye to your supplies on hand, that before they are consumed others may be ordered, and reach you: without necessary supplies an army cannot operate with effect. The late scarcity ought to teach us a lesson on this

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head never to be forgotten ; I shall, therefore, expect that no scarcity will exist at any place, post, or garrison intrusted to your care.

I shall expect to hear from you shortly, and that you and your brigade may be successful in all your operations, and cover itself with glory, is my heartfelt wish ; and, with this feeling, I am, very respectfully, &c.

ANDREW JACKSON,  
*Major General commanding.*

Brevet Major Gen. GAINES.

True copy : R. K. CALL, *Aid-de-camp.*

*Extract of a letter from the Secretary of War to the Hon. W. Lowndes, Chairman of the Committee of Ways and Means, dated 13th April, 1818.*

The estimate formerly transmitted for the expense of calling out the militia during the present year, was made for infantry ; but as upwards of twelve hundred men of the present militia force in the field are mounted volunteers, an additional sum of ninety thousand dollars will be necessary to meet the increased expense.

DEPARTMENT OF WAR, Dec. 21, 1819.

A true copy from the records of this Department.

C. VANDEVENTER.

HEADQ'RS, TENN. VOLUNTEERS,  
*South side of the Tenn. river,*  
February 13, 1818.

SIR: I have the honor to transmit to you the muster-rolls of the volunteer mounted gun-men, of West Tennessee; also, a consolidated morning report of the brigade. I have had much trouble in procuring these returns.

I have the honor, to be, &c.

A. P. HAYNE, *Insp. Gen.*

To Brig. Gen. D. PARKER,  
*Adjutant and Insp. Gen.*

True copy on file in my office.

A. P. HAYNE,  
*Inspector General U. S. Army.*

DEPARTMENT OF WAR, March 7, 1818.

SIR: I have had the honor to receive your letter of the 9th, and three of the 15th instant. I have the pleasure of expressing to you my entire approbation of all the measures you have adopted to insure a prompt movement of the patriotic volunteers confided to your command.

It is a subject of regret that there is no public arsenal in that section of the country, from which arms and equipments could be drawn. The course which you have taken to remedy the evil, I trust, will be effectual. So far as it may be practicable, let the arms be preserved and returned, after the campaign closes, to the owners. Where this cannot be done, let the account, properly vouched, be paid by the quartermaster's department.

The bills drawn on account of supplies of every

kind will be paid when presented to this Department. Upwards of one hundred thousand dollars have been forwarded to the paymasters of the fourth and seventh regiments, for the payment of the militia, before they are discharged. General Jackson will adopt such measures as will be proper to secure this object. The desire of the President, that the disbursing officers of the regular forces should be charged with the expenditures of the campaign, is the only obstacle to appointing the gentlemen recommended by the officers of the Tennessee brigade. Every attention will be given to secure the object of their wishes.

I am well aware of the difficulties to be overcome to organize efficiently, and satisfactorily to the officers and men, a volunteer corps for the field. In the present instance, the pride and spirit of veterans, aided by patriotism, and directed by superior intelligence, have handsomely surmounted every obstacle. The alacrity with which the brave Tennesseans have again resumed their arms in defence of their country, is a sufficient earnest that their efforts will be successful, and that their efficiency, joined with the gallant exertions of other corps, will speedily terminate the conflict. I have the honor, &c.

JOHN C. CALHOUN.

To Colonel A. P. HAYNE,  
*Insp. Gen., com'g Tenn. brigade.*

True copy, taken from the original on file in my office.

A. P. HAYNE,  
*Insp. Gen. U. S. Army.*

I, Richard K. Call, captain of the United States army, and aid-de-camp to Major General Jackson, do swear, that, some time during the last session of Congress, I was summoned to appear before a committee of the Senate of the United States, to give evidence in relation to the occurrences of the Seminole campaign ; that, after giving the statement, which appeared as one of the documents accompanying the report of the committee, (which statement was taken in writing by one of its members,) I was told by Mr. Lacock, chairman of the committee, that my testimony could not then be copied in order to receive my signature, but that by the next morning at ten o'clock it should be prepared ; at which time I should have an opportunity of comparing it with the original, and of correcting any mistake which might arise in its being transcribed. I accordingly repaired on the day appointed to the Senate Chamber, and was informed by Mr. Lacock, chairman, that the committee would not meet that day, and that my testimony was not yet copied. I again mentioned to him, that, from the number of mutilations and erasures which had been made in recording my evidence, if it was copied, I should expect the right of seeing it before it should be given to the public. He replied that he did not know that the committee would make any use whatever of my deposition ; but if they should ultimately determine to introduce it as a document on which a report would

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be framed, it should be previously copied, submitted to my inspection, and receive my signature; none of which promises were complied with. After my interview with Mr. Lacock, I remained in Washington five or six days, to the best of my recollection, during which time I heard nothing from Mr. Lacock or my deposition; neither did I learn that my statement had been applied to any purpose until my return from Philadelphia to Baltimore, at which place I saw it attached to the report of the committee.

My deposition, however, though published without my having an opportunity of correcting errors which might arise in transcribing it, and in direct violation of Mr. Lacock's promise, is, according to my recollection, correct, with a trivial exception. It is not, however, without error; and this error will be found in the omission of the expression, *I believe*. When interrogated by the committee, in relation to the purpose for which Lieutenant Sands had been ordered to Mobile, my answer was, *I believe* he was ordered there for artillery; and not positive to the fact. I, moreover, observed to the committee, that I did not, at that time, belong to the personal staff of General Jackson; my duties were remote from his person, and therefore I was little acquainted with the views and opinions of the commanding General.

R. K. CALL.

Sworn to, this 30th day of July, 1819, before

W. TANNEHILL, *J. P.*

True copy:

R. K. CALL, *Aid-de-camp.*

NASHVILLE, *July 29, 1819*

I, James C. Bronaugh, of the United States army, and attached to the staff of Major General Andrew Jackson, do swear, that, during the last Winter, whilst at the City of Washington, I was summoned to appear before the committee of the Senate, in pursuance of their resolution of the 18th December last, "that the Message of the President, and documents relative to the Seminole war be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida, whether the officers in command at Pensacola and St. Mark's were amenable to, and under the control of, Spain; and particularly what circumstances existed to authorize or justify the commanding General in taking possession of those posts." That, when I appeared before said committee, I was questioned upon the subjects contained in my deposition, which is published in the documents accompanying their report of the 24th February, 1819; that the substance of my answers was taken down by Major John H. Eaton, a member of the committee; and that it was expressly declared to me by John Forsyth, another member, "that if my testimony was used by the committee, I should have timely information, for the purpose of affording me an opportunity of correcting it." That this promise

made me by Mr. Forsyth was violated; and that I never saw the deposition afterwards, until it was published in the documents accompanying the report.

JAS. C. BRONAUGH, *U. S. A.*

Sworn to, and subscribed before me, this 24th day of July, 1819.

R. C. FOSTER, *J. P.*

True copy:

R. I. EASTER, *Aid-de-camp.*

R. K. CALL, *Aid-de-camp.*

NASHVILLE, *April 21, 1819.*

SIR: In a conversation with Mr. Forsyth on the subject of the report of the committee of the Senate, I stated that the committee had misstated several facts in relation to the occurrences of the Seminole war. "First. That the Governor of Tennessee was in Nashville when you received your instructions to call for a portion of the militia of the State, and that you neglected to make any requisition upon him for the number for which you were authorized to call; informing him that he was not then in Nashville, and that you had written him immediately on receiving your instructions. I further told him that you were prepared to prove that you had not appointed the officers to their respective commands as alleged by the committee." To all which Mr. Forsyth replied, that it was much to be regretted that, in an investigation so important to the country and the character of the individual, evidence so closely connected with the matter in consideration had not been earlier before the committee. I am, sir, respectfully, &c.

RICHARD I. EASTER.

Major Gen. A. JACKSON.

True copy:

R. K. CALL, *Aid-de-camp.*

DUNLAPSVILLE, TENNESSEE,

*March 30, 1819.*

SIR: On the 22d of February, 1819, Governor McMinn came to Kingston. Immediately on his arrival I informed him of my intention to raise a volunteer company, to join your army on its march to Fort Scott. The Governor went to John Laya's tavern, and made a public and animated appeal to the patriotism of the people of Kingston and its vicinity; and assured all those who would go with me, or go from any part of the State, that they went with his warmest wishes, as he felt anxious to facilitate every movement of the volunteers at so important a crisis. Governor McMinn pledged his faith and reputation, as Governor of the State of Tennessee, to those who went with me, that remuneration should be made for their services.

I am, with respect, yours, &c.

RICHARD G. DUNLAP.

General JACKSON.

A true copy:

R. K. CALL, *Aid-de-camp.*

*Defeat of the Seminole Indians, &c.*

HEADQ'RS, SOUTHERN DIVISION,  
Nashville, Jan. 11, 1819.

SIR: I have just received orders from the President of the United States to repair to Fort Scott, Georgia, with instructions to call on the Governors of the neighboring States for such additional militia force as may be deemed necessary to co-operate with the disposable regular troops of the southern division, against the Seminoles.

I have this night addressed circulars to several of those brave officers who served with me during the Creek campaign, under a hope that a timely address to the patriotism of our citizens will enable me to effect, by voluntary enlistment, what would otherwise have to be done by draughts.

I have called for one thousand mounted men; and, should the appeal prove inefficacious, will embrace the earliest opportunity of making a requisition on you for a like number of draughted militia.

I have received your letter of the 4th instant, and am happy to hear of the ratification of the treaty with the Cherokee Indians.

Respectfully yours, &c.

ANDREW JACKSON,  
Major General commanding.

Governor McMinn.

A true copy:

R. K. CALL, *Aid-de camp.*

[CIRCULAR.]

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 11, 1818.

SIR: The Seminole Indians have raised the war hatchet. They have stained our land with the blood of our citizens; their war spirit must be put down, and they taught to know that their safety depends upon the friendship and protection of the United States. To accomplish this, the aid of one regiment of mounted gun-men, of one thousand strong, completely armed and equipped, and to serve during the campaign, is asked from West Tennessee. Can you raise them, and be ready for the field, in ten days? If you can, your General, who led you to victory on the plains of Talledega, Emuckfau, and Tohopeka, asks you to accompany him to the heart of the Seminole towns, and there aid in giving peace and safety to the southern frontier. An answer is expected in five days, and it is anticipated that the number required is now ready. This is a private appeal to the patriotism of West Tennessee, and is not to appear in a newspaper. If the regiment is raised and marched, all expenses for expresses shall be paid. By the return of the express you are expected to give your opinion of the probability of the result, that preparations may be made accordingly. Colonel R. H. Dyer, Colonel Gibson, Colonel Williamson, Colonel George Elliott, Major William Mitchell, Major John Smith, of Montgomery county, Colonel Martin, of Williamson, and Captain F. Ellis, of Dixon county, have alone been addressed on this subject. The grade of the officers to be determined by themselves or

the platoon officers of the regiment. The officers raising companies to command them. Upon further reflection, it is requested that those officers named above, and all such as can raise a company, will meet me at this place on the 19th of the present month. Punctuality in this is much desired; and it is further requested, that all those officers, who have served in the late war will be confidentially notified of the foregoing.

I have the honor to be, &c.

ANDREW JACKSON,  
Major General commanding.

A true copy: R. K. CALL, *Aid-de-camp.*

NASHVILLE, January 19, 1818.

SIR: In my last I informed you of the late order received from the President of the United States, and the appeal I had made to the patriotism of West Tennessee. This day the officers who heretofore commanded the volunteers met me, and report, that two regiments of mounted gunmen will rendezvous, on the 31st instant, at Fayetteville, prepared and equipped for a tour of six months. Thus you see, that my best hopes of Tennessee are realized. Had circumstances permitted, and time allowed, and the emergency demanded an appeal to the whole State, I have no doubt but five thousand men could have been raised. There appears no difficulty but the want of arms. With those two regiments, and the regulars, should the time of the Georgia troops have expired, I will be able to act promptly, and, I hope, with effect.

The last account from Fort Scott, on the 19th ultimo, left the regular force in an unpleasant situation. I set out on the 22d, in the morning.

I have the honor to be, yours, &c.

ANDREW JACKSON.

His Excellency Governor McMinn.

True copy: R. K. CALL, *Aid-de camp.*

*Act of the Legislature of Tennessee.* [See chap cxviii, sec. 112.]

*Be it enacted,* That, when it may be conceived that the public good eminently requires it, the Governor is hereby authorized to call out such parts of the cavalry of this State as he thinks proper; and, when so called out, they shall be considered, ruled, and regulated, as mounted gunmen, for the time he may so order them.

True copy:

R. K. CALL, *Aid-de-camp.*

*Extract of a letter from Governor McMinn, dated*  
JUNE 20, 1818.

DEAR SIR: I am happy to hear of your return, as also those brave men who volunteered their services with you.

I have never heard from you since you left the Lookout Mountain; but hope, from what I have learned from others, that you have silenced the disturbers of our peace. I am prodigiously pleased

*Defeat of the Seminole Indians, &c.*

to hear of your leaving the posts of St. Mark's, and Pensacola in possession of the Americans out of which I trust in God they will never be taken.

JOS. McMINN.

General JACKSON.

True copy: R. K. CALL, *Aid-de-camp.*

*Extracts of two letters from the Governor of Tennessee to Major General Andrew Jackson, dated*

MURFREESBOROUGH, April 6, 1819.

Your favor of the 3d instant is now before me, and with pleasure I make the following reply:

Your letter, dated Nashville, 11th January, 1818, reached me at Knoxville, seat of Government.

Your letters of the 11th and 19th January both reached me by due course of mail; the former advising of your having received instructions from the President of the United States to call on the Governors of the neighboring States for such militia force as you might deem necessary, to co-operate with the regular troops of the southern division against the Seminole Indians; but that you had made an appeal to the officers who had served with you in the Creek campaign, by which you expected that the necessity of calling on the State of Tennessee for one thousand draughted men would be superseded; which expectation must have been realized, by the advice contained in your letter of the 19th above referred to; in which you state that the officers have given you assurances that they would furnish two regiments at the earliest notice. Your mode of raising those regiments met my entire approbation; and I gave it my support in aiding Captain Dunlap in raising a company of mounted volunteers, at Southwest Point, which I have since learned joined your army at Fort Gadsden.

True extract: R. K. CALL, *Aid de-camp.*

DEPARTMENT OF WAR, Feb. 5, 1819.

SIR: The enclosed is a copy of a letter from the chairman of the committee of the Senate, on the subject of the Seminole war.

Governor Bibb's letter to you of the 19th of May last is all the information now in the possession of this Department relative to the inquiry of the committee.

I will thank you to communicate, as early as practicable, whatever information you may possess on all the points of inquiry contained in the letter of the chairman, and not comprehended in the letter referred to.

I have, &c.

J. C. CALHOUN.

Major Gen. ANDREW JACKSON,  
*Washington City.*

A true copy: R. K. CALL, *Aid-de-camp.*

Arthur P. Hayne, inspector general of the southern division of the Army of the United States, and late commandant of the Tennessee volunteers, being duly sworn, testifies: That, in the month of

January, 1818, Major General Andrew Jackson, of the United States' Army, addressed circular letters to Colonels Dyer, Williamson, Elliott, Mitchell, Philips, and others; and stated to them that the southwestern frontier was in danger, and that he had determined to make an appeal to the patriotism of the people of West Tennessee; that it was his wish to raise two regiments for that object. And deponent further testifies, that, on the arrival of the field officers at Nashville, they, the said field officers, settled among themselves their own rank; and the deponent further declares that the said field officers were not, in any way or manner, either directly or indirectly, mediately or immediately, controlled, governed, or influenced by the said Major General A. Jackson; and the deponent further testifies, that the field officers determined, at their first meeting at Nashville, that individuals who first succeeded in bringing to the rendezvous full companies should rank as captains, and command their own men; and that the same principle should govern the election of subalterns. And the deponent further testifies, that he never received any authority from Major General Andrew Jackson, nor was he concerned himself, any way or manner whatever, either directly or indirectly, mediately or immediately, in any of the appointments of the officers of the Tennessee brigade, with the exception of those of his immediate staff, a privilege allowed to all commanding officers, either in regular or militia service. The deponent further testifies, that the muster-rolls of the Tennessee brigade were forwarded on to the Adjutant and Inspector General's Office, at Washington City, on the 13th of February, 1818, from Ditto's landing, on the Tennessee river; that the said rolls reached Washington in safety, and in the ordinary course of mail.

A. P. HAYNE.

True copy: R. K. CALL, *Aid-de-camp.*

Sworn to and subscribed before the undersigned, judge of the first judicial district of the State of Louisiana, this 12th of June, 1819.

JOSHUA LEWIS.

Certified: R. I. EASTER, *Aid-de-camp.*

ELM GROVE, May 21, 1819.

DEAR GENERAL: I have just returned home from the western district, and have recently seen the report of the Senate of the United States relative to the Seminole war, wherein I find you charged, by a committee of that honorable body, of organizing and appointing the officers to take the command of the volunteers from this State engaged in that war. Certainly that committee could not have received the proper information respecting the particular subject; and, believing that you, sir, have a wish that the facts should be stated in all questions wherein you are concerned, I have thought proper to make the following statement, which every field officer belonging to the two regiments, I have no doubt, will recollect to be facts.

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In the month of January, 1818, you made an appeal to a number of those officers who had accompanied you in the Creek war, and to Mobile, Pensacola, and New Orleans, and named to them that there were one thousand men wanting, and that volunteer mounted men would be received; and requested that those officers would meet at Nashville, on the 19th January, 1818; at which time and place a number of officers met. After assuring you that the men could be raised with ease, it was proposed by myself, and some other officers then present, for you to name the officers to command those troops. This you refused, and said, "Agree among yourselves on your officers;" and then stated to the officers present that you would appoint Colonel A. P. Hayne to lead us on to Fort Scott, and, on our arrival at that point, you would then take the command yourself. We then left you, and withdrew to a room, where it was agreed that I should take the command of the first regiment, and Colonel Thomas Williamson should take the command of the second regiment, and that we should officer and organize them in the same way that the volunteer mounted gun-men were organized in 1814, when we marched to Mobile, Pensacola, and New Orleans; the other field-officers were then agreed on, and our names reported to you, in writing, who would command the two regiments. You then named to the officers the law regulating the Peace Establishment, and how the regiments were officered under that law. It was then named to you by myself, together with several other officers, that, by experience, we had found that horsemen required more officers than footmen, on account of horsemen covering a much larger space. You then said, "Organize yourselves in a way that you may think proper; it will rest with the Government." A number of those officers you made the appeal to were commissioned by James Madison, Esq., then President of the United States, in 1812; and a part of them, under all privations, stuck to the service with you, without a murmur, during the war with Great Britain and the hostile Creek Indians.

I am, sir, with great respect, yours, &c.

R. H. DYER,

*Late Colonel 1st reg't Tenn. volunteers.*

The facts stated in the above letter are known by the undersigned, who was present at the time alluded to, to be correct.

THOMAS WILLIAMSON,

*Late Colonel 2d reg't Tenn. Volunteers.*

MURFREESBOROUGH, Sept. 23, 1819.

SIR: In answer to your note of this date, just received, I have to reply that I was of the volunteer corps raised in East Tennessee, in the latter part of the year 1812, by Colonel John Williams, and marched into East Florida in the same year, or in January in the year 1813, as well as I recollect. I was an officer in the said corps, and held a commission signed by Colonel John Williams.

This volunteer corps was raised under the influence of Colonel Williams, organized by him, and the officers commissioned by him. We marched into East Florida, and had an engagement with the Indians and negroes. This campaign was approved by the General Government, and the officers and men paid for their services.

I am, respectfully, your obedient servant,

SAMUEL BUNCH.

Major General JACKSON.

A true copy:

R. K. CALL, *Aid-de-camp.*

Major General ANDREW JACKSON:

In answer to the interrogatories this day proposed by you to me, I declare I held no office or appointment whatever under Colonel John Williams, or any other person, in the Florida or Seminole campaign, commonly so called, set on foot and commanded by Colonel John Williams, in 1812.

I was one of the privates composing that service, and my services were wholly voluntary. I did not know that any commissions were made out in form for the officers; but I know that the officers were selected or named by Colonel John Williams, and I know those selected by him served in the capacity for which they were selected. I know it, because I was consulted on that occasion; the selection having been made, as I believe, with a view, in part, to the feelings and interest of the individuals composing the command. We had an engagement with Indians, and perhaps negroes; but I do not know that there were any negroes in the engagement. I received my pay from the General Government, and I believe all others did. I know of no authority given by the General Government to raise such company, nor have I ever understood that there was any; and I believe the same to have been wholly voluntary.

Given under my hand, this 22d of September, 1819.

P. M. MILLER.

A true copy:

R. K. CALL, *Aid-de-camp.*

*From the National Intelligencer of March 8, 1819.*

[Communicated for publication.]

STRICTURES ON MR. LACOCK'S REPORT  
ON THE SEMINOLE WAR.

The author of this article has had access to documents, the perusal of which convinced him that the report of the select committee of the Senate, on the Seminole War, is alike unjustifiable in temper, argument, and statements. Its temper is harsh and vindictive, its arguments are childish weak, and its statements are, in many instances, grossly and unaccountably erroneous. The report has been read with astonishment and regret; regret that such a document should

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go before the world unanswered in Senatorial discussion; and astonishment, as well at the institution of such an inquiry into the conduct of General Jackson as at the anomalous and unfair manner in which the investigation has been conducted.

But independently of the peculiar hue of this instrument, it is also objectionable—1st. Because it is designed to impute the cause of the war to our own officers and Executive, laying aside all provocation and aggression on the part of the Indians; 2d. Because it directly implicates the President and Secretary of War; for, although they were not, in the first instance, guilty of what the committee calls “a gross violation of the Constitution,” yet they made the act theirs by adoption; and, if this implied accusation is just, those officers ought to be impeached; and, 3d. Because the Senate should not prejudge a case which they may be required to examine judicially; and on which this anticipation of censure would disqualify them to act.

This subject was, on the 18th November, referred, by the House of Representatives, to two committees, the military and foreign; and, one month after, on the 18th December, Mr. Lacock moved, in the Senate, for a committee on the same subject. He appears to have been the moving principle throughout the whole investigation in the Senate. To his exertions are the public indebted for the commencement of the business, its peculiar character of virulence, and the singular document by which it is terminated.\*

The Seminole war was discussed in the lower House for more than three weeks, and yet not a single member suggested the slightest censure either on General Jackson, for the employment of volunteers, or on General Gaines, for the unauthorized call on the Creek nation. It was reserved for Mr. Lacock to make the discovery of a violation of the Constitution in these acts; and the honesty of his views, in advancing such a charge, is to be found in the time at which he made his report—when the Senate had but six days to sit, and it could not be discussed; and in declining to annex the customary resolution, so as to admit of discussion and afford the friends of General Jackson an opportunity for defence. In fine, it was obviously intended to counteract the effects apprehended from the vote of the House and the force of public opinion; and was, incontestably, designed to inflict a wanton blow on the feelings and character of General Jackson, under the imposing sanction of a regard for public duty.

It is needless to consume time in an exposition of reasons for thinking such a trial of any man's motives and conduct unfair and unconstitutional. It is enough to remark, that justice consists, not merely in awarding punishment for crime, but in giving to individuals accused of misconduct

a full and impartial hearing, and an opportunity of advancing all accessible testimony for the elucidation of their acts and the uprightness and innocence of their intentions. This justice has been denied to General Jackson. His public acts and private character have both been made the subjects of systematic investigation; and, without a hearing, he has been pronounced guilty of the awful crime of striking at the liberties of his country, by an infraction of its Constitution; and has received, in a sentence of censure, the cruellest punishment that can pierce the bosom of a soldier.

And what is the motive to which all the General's acts in Florida have been attributed? His operations, say the committee, were conducted “on reasons of his own, unconnected with his military functions”—and these “reasons” were mercenary views and speculations, which the occupancy of the Spanish territory would facilitate and mature! It is to be hoped that General Jackson will never degrade himself by answering a charge as foul as it is ridiculous—a charge totally unsupported by any of the documents, and abundantly refuted both by them and by his character. No man in public life, who marches steady and erect along the path of duty, can fail to awaken enmity among those who envy his reputation, without ability to emulate his virtues. But, surely, the deadliest foe of General Jackson cannot, for a moment, credit such a charge as this. I dare venture to assert, that not a single member of the select committee, malignant as appears to be the hostility of some of them to the General, believes that he led an army to the field, and jeopardized the lives of valuable citizens, in order to speculate with security in Spanish lands; or that he risked the ruin both of health and reputation, and prostrated the Constitution, to secure the paltry advantage of buying a few acres in Florida. We read of men whose dangerous political ambition prompted to the commission of awful crimes towards their country; but the monstrous act of overturning a free constitution and making unauthorized war, with the despicable view of trifling pecuniary emolument, is yet, and may it long be, unheard of and unrecorded. If that committee do not believe the charge they have advanced, what can be their views, and how will they explain their motives to their country? It would be both indecorous and useless to indulge in the language of resentment and recrimination; but it would be injustice to the country to withhold the expression of a deep conviction, that this most unjust and illegal trial originated in dishonest motives—from feelings of personal hostility in one of the members, and, in others, of a disposition to gratify a junta. It is right to state, that two members of the committee were opposed to the report. One of those, who was not personally acquainted with the General, and who sat in the convention which framed the Constitution, was too well acquainted with the principles of that sacred instrument, to sanction any proceeding calculated to do it vital injury; and the other had too long known Gen. Jackson to en-

\* Mr. Lacock's son was contractor's agent, and failed in supplying Fort Scott. It has been intimated that the father was interested in the contract.



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certain any doubt of his purity. When the course of these gentlemen is contrasted with that of the majority in the committee, the people will have no difficulty in conceiving the impure motives by which that majority were governed.

The principles which guided the Commander-in-Chief, in the movements of the Seminole campaign, have been so ably developed and supported by men of integrity and talents, that it is deemed unnecessary now to review them. The orders which governed him are before the world. The selection and use of the means for their complete execution are well known. If he left anything undone which was necessary "to give peace and security to the Southern frontier;" or if he unnecessarily superadded to the sufficient means for effecting this object any act injurious to the country and destructive of the Constitution, the grounds for a fair judgment are with the nation, and its award, either of blame or approbation, will doubtless be just. This article shall be confined to the elucidation of some obscurities, and the correction of several misstatements of facts in the narrative of the report. The argumentative part shall only be touched incidentally.

It is stated in the first page of the report "that, in the Spring or Summer of 1817, the regular troops were withdrawn from the posts on the Georgia frontier, and concentrated at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line." This is calculated to create an impression that General Jackson issued the order for evacuating the posts south of Georgia, and thereby jeopardized that frontier, by opening the way for savage incursions. But, in the commission of this military error he was no way instrumental. The order for the movement of the troops to the Alabama was issued from the War Department, by Mr. Crawford, contrary to the General's opinion, who considered the movement both dangerous and impolitic.

In page 2 it is stated that General Gaines ordered Major Twiggs "to surround and take an Indian village, called Fowl Town, about fourteen miles from Fort Scott, and near the Florida line." The order to Major Twiggs was, to bring to Fort Scott the chief of Fowl Town, who had repeatedly been called to an interview, and as often contumaciously refused to appear. The object of General Gaines was to have a definitive understanding with the Chief, respecting his hostile or friendly intentions; and the importance of such an understanding induced the General to order his forcible capture, if gentle means proved inefficient.

In the same page is this remarkable paragraph: "On the receipt of this order," (the order under which General Jackson proceeded on the Seminole campaign,) "General Jackson, instead of observing the orders of the Department of War, by calling on the Governor of Tennessee, then in Nashville, near the place of his residence, chose to appeal (to use his own expressions) to the patriotism of the West Tennesseans, who had served under him in the last war. One thousand mounted gunmen and two companies of what

were called *life-guards*, with the utmost alacrity volunteered their services, from the States of Tennessee and Kentucky, and repaired to his standard. Officers were appointed to command this corps by the General himself, or other persons acting under his authority. Thus organized, they were mustered into the service of the United States."

At the time this order was received, the Governor of Tennessee was either in Knoxville or the Cherokee nation; and to have waited the result of the usual process of draughting would have produced the two evils, of much loss of valuable time and the raising of a force reluctant in disposition and inefficient in character and equipment. General Jackson immediately despatched a letter to Governor McMinn, apprizing him of the call for volunteers, and informing him that in case the call should not be promptly and effectually answered, he should require of him one thousand draughted militia.\* The Governor warmly approved the step the General had taken, and added to his force one company of mounted volunteers, who joined the army at Fort Gadsden. General Jackson's letter of the 12th January, apprized the Department of the measure, and the Secretary approved and sanctioned it.†

Corps of the same character with the Tennessee volunteers were raised in other parts of the country, and under different officers, during the late war with Great Britain. In the Northwestern campaign, General Harrison was joined by a body of volunteers, led by Colonel Johnson; and Governor Shelby authorized the General to form them into corps, and appoint such officers as the men might elect. Another body of men, from Ohio, joined the army on the march of General Harrison for the relief of Fort Wayne, without any authority, and uncommissioned by the State Executive. These organized themselves and appointed their officers. Their services were accepted for ten days, and they received pay for that period.

It is well known that exactly the same kind of troops followed General Jackson into the Creek nation, and achieved the victories of Taledaga, Emucklaw, and the Horse-Shoe. The same men who penetrated the swamps of Florida, covered Mobile from British visitation; and the same troops, officers, and men,‡ defeated Wellington's veterans on the shore of the Mississippi, and saved New Orleans from incendiary pollution. Did Congress, then, adjudge the act of raising them "unconstitutional," or did they approve the mea-

\* See Doc. B. † See Docs. C. D. L. K. I.

‡ It is worthy of remark, that the same regiments, similarly officered, and nearly the same men who were at New Orleans, were in the Seminole campaign. They assembled in 1814, at the call for volunteers, chose their officers, and cheerfully obeyed them, although none were commissioned. They followed the same course exactly in 1817-18, and, in both cases, victory followed their march.

The muster rolls of the volunteers, in 1814 and 1818, now on file in the War Office, establish this fact.

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sure and make appropriation for paying them? I will not say that the sanctioning an act by one Congress obliges every succeeding Congress to approve all similar proceedings. But, where a measure of important necessity is adopted on personal responsibility, and approved by the Government or the nation, it must be some motive, different from a regard for principle, that could prompt a committee of Congress, at another period, to censure a similar measure, urged by similar necessity, and productive of similar benefit.

It is thought unnecessary to enter minutely into an inquiry on the powers of either the War Department or a Major General Commanding: to raise, on emergency, a body of mounted volunteers. We shall leave this discussion to those who are fond of cavilling at forms, and raising technical objections to the most important and necessary measures. Suffice it to say, that General Jackson had to choose between two modes of raising the requisite force: the one productive of pernicious delay,\* and calculated to insure ultimate defeat; the other, more simple, less expensive, and creative of an army, fraught with ardent enterprise, and willing to endure every privation in giving safety to their brethren of the South. To select was not difficult. It was a choice between defeat and victory; the full performance of an urgent duty, or the disgrace of the General and the destruction of his army.

The committee are grossly erroneous in asserting that General Jackson appointed the officers of the volunteer corps.† He did not appoint one of them. It is true that he appealed to the officers who had gallantly fought with him in the wilderness of the Creek nation, and on the plains of New Orleans, and again roused them to the defence of their frontiers.‡ But their appointments to command were in all cases made by the choice of the men they brought into the field; and many of the officers, high in rank, accepted subordinate commissions. Colonel Hayne was ordered to take command of the volunteers, to organize, muster, and march them to the frontier.

It may be well to remark, before quitting this subject, that the field officers of the Georgia troops were appointed by choice of the men, after the concentration of the militia on the west bank of Ockmulgee, and beyond the civil jurisdiction of Georgia.

In page 5, the committee remark that the whole strength of the Seminoles, when combined, did not exceed one thousand men, opposed to whom, under General Gaines, were "1800 regulars and militia, besides 1500 Indians, illegally subsidized by the last mentioned General. What, then, in this state of the case, becomes of the plea of necessity?" I will ask, if the committee did not know, that correct information of the numbers and positions of the Indians was only obtained

after the termination of the campaign? General Gaines was led to believe, from his inquiries on this subject, that the number of the Seminoles exceeded 2,800 warriors. Would it have been prudent to march half this number of men to the frontier, had the General even believed the numbers of the enemy to be exaggerated? The strength of the Seminoles might easily have been augmented by auxiliary bands from the more easterly parts of Florida, and it became General Jackson's duty, under this consideration, to raise such a force as would insure success in every emergency. Can it be wrong to act against an enemy, with a larger force than his own: or is it impolitic and unmilitary to use that superiority which will insure success? Such a principle may govern those who lead men to battle to gratify ambition, and weave barren laurels for their brows. But such battles General Jackson never has fought, and never will fight. He has too dear a regard for the character of his country and the lives of her citizens, to endanger either in useless contests; and far may it ever be from him, to draw either on the purse or the blood of the Republic, to purchase the wreath of unprofitable glory.

It is said that the Indians were illegally subsidized by General Gaines. General Mitchell's letter of the 14th December, 1817, to the Secretary of War, apprizes the Department that the friendly Indians should be employed; and General Gaines, in a letter of the 2d December, also informs the Secretary of the contemplated employment of Indians; which communication was received at Washington, on the 26th December. If, then, the Executive were early apprized of General Gaines's intention, the Secretary, by not disapproving the measure, adopted it; and the committee knowing this fact, in attributing improper and illegal views to General Jackson, only afford an additional display of splenetic hostility to the army, and the most wanton and studied disregard of truth.

The committee accuse the General of disobedience of orders, inasmuch as he disregarded the injunction to General Gaines to abstain from attacking Spanish garrisons, without special instructions from the Department.

It is a clear principle that no order given to one officer can be made part of an order subsequently given to another officer, for the performance of the same duty, without a special reference to the first, and an express direction to be governed by it. Jackson's orders were general: he was told to terminate the conflict, and give tranquillity to the frontier; and, in these orders, no instructions can be found for his government by the orders previously given to General Gaines. In selecting the means of accomplishing the objects of the campaign, the commanding General's powers were discretionary, and for his judgment, in using those powers, was he alone responsible. The only mode in which he could have disobeyed the order, was either to have remained inactive at Nashville, or to have adopted such measures as would have been more pernicious than inac-

\* See Doc. A. † See Doc. M.

‡ The importance of rapid movement, at that time, is best proved by a reference to Doc. F. containing an extract of a letter to Colonel Arbuckle, then at Fort Scott, in an extremely difficult situation.

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tivity. In either case, his conduct would have been justly reprehensible.

But admit the orders of General Gaines to be obligatory on General Jackson—the case contemplated by these orders never occurred. The Indians were not found under the guns of the Spanish fort, but were sheltered within it. It was their depot, from whence they drew their public stores, both of ammunition and provision. Spanish officers escorted parties of Indians to place them in security from our attacks. The war was planned in St. Mark's. The Indian power of attorney was executed there, and countersigned by F. C. Luengo, the commandant; and the councils for the arrangement of every warlike movement were held in the quarters of that officer.

If these facts had been known at the War Office, it is not to be doubted, that an order would have been issued for the seizure of St. Mark's. For when they, and the acts of the General induced by them, were known, the President approved of the measure. It had not been conceived that the Spanish officers had made themselves parties in the war; and no previous order could have been expected to meet a case which was not supposed to exist.

In page 6, the committee remark, that "here also at (St. Mark's) were taken two Indian chiefs, one of whom pretended to possess the spirit of prophecy; they were hung without trial, and with little ceremony." The committee have forbore to state, that Francis the Prophet had long been one of our direst and most dangerous foes—that he had a Brigadier's commission from Great Britain—and that he successfully employed his superstitious influence and the promises of his trans-atlantic friends to instigate his deluded brethren to deeds of rapine and massacre. They seem also to have forgotten that Homathlimico, the other chief, had headed the party who in cold blood murdered Scott and his unhappy companions—struck the reeking tomahawk into the bosoms of defenceless women, and "dashed out the brains of their infants against the boat."

Was it mere "technical retaliation" under which these monsters were executed, or, was their death an awful but just punishment for their unhallowed crimes? It is wrong to speak of the policy of executions; and I trust that mere policy shall never be urged as an excuse for depriving a fellow-being of existence; but criminals are executed both for example and punishment, and the awful example made of Francis and Homathlimico had a wide-spread influence. Two Indians had been taken with them and released; and, in a few days, the whole Ocheese tribe surrendered at discretion. They were treated humanely, furnished with transportation and provision, and sent into the Creek nation.

An effort is made by the committee to show, that, at the time General Jackson believed the war to be ended, he had resolved on occupying Pensacola. To establish this charge, they more than once refer to extracts from his letters, wherein he states that the Seminoles are dispersed and their means of annoyance destroyed. It will

be recollected, that these letters were written after the end of that part of the campaign which was conducted in East Florida, and had a necessary reference to the General's success in securing that portion of our frontier immediately open to the incursions of the Eastern Seminoles. At the time the despatches were written, the numbers of hostile Indians in West Florida were unknown; and, without attributing to General Jackson the powers of prophecy and magic, it was impossible, in stating "the Seminole war was ended," that he meant to extend the remark to all future aggressions, both on the eastern and western extremities of our Southern border. The Seminoles in East Florida were dispersed, not exterminated; their towns were burnt and their cattle taken from them; of course, when scattered and in a state of starvation, the commanding General safely said the war with them was at an end. But the means of subsistence they might soon again procure from labor and the sympathy of their Spanish friends east of Savannah—and, these obtained, they still possessed the power of concentration and incursion; although it was confidently trusted that the awful lesson which they received would have a permanent salutary influence.

In West Florida, the same outrages had for some time been committed, almost daily, on the frontier of Alabama; and the letter from Governor Bibb of the 19th May, which was received on the arrival of the army at the Escambia, plainly showed that the territorial border called as loudly for defence and security as the frontier of Georgia.

East and West Florida were similarly situated; both were inhabited by Indians hostile to the United States, in both had British instigation cherished and matured this spirit of hostility, and in each, had the savages a depot, whence they drew their warlike munition, and on which they could retire in case of defeat. Of all these facts, the General had the fullest proofs; and with these proofs before him, he had to choose between retiring from Florida into Tennessee, content with doing half his duty by securing half the frontier, or executing his orders entire, by pursuing the same course to tranquillize the West, which he had successfully adopted in the East.

I mean not now to enter upon a defence of the occupancy of Pensacola. General Jackson believed it necessary, and therefore he did it. If it saved the life of a single frontier settler, it was right; and it can only be proved wrong by showing, that there was not a single body of Indians in West Florida at the time Pensacola was occupied. The savages west of Pensacola Bay were scattered in the swamps, obtaining, after their dispersion by the movements of Major Young's and General Jackson's advance into the country, a miserable subsistence by hunting and depredating on the cattle of the inhabitants. Had these Indians, irritated by defeat, been granted access to their old depot, they would, in parties of ten and twenty, have committed more murders on our open borders than could ever have sat easy on General Jackson's conscience, had any act

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or neglect of his facilitated their commission. Common sense as well as national law prohibits any violation of neutrality to prevent an evil remotely prospective. But, where the expected danger is both of vital character and certain occurrence, to neglect any means of preventing it is not only falsely generous but grossly criminal. Individuals may make such sacrifices, when mere personal danger or inconvenience is apprehended, but to avert so dreadful an evil as the murderous incursion of a savage foe, all accessible means of security and prevention are imperiously called for. Men, who know the Indian character, are well aware of the folly of defensive operations to restrain their massacres and predatory expeditions. If the whole army had been extended in a cordon, along the Southern frontier, they would have been laughed at by the Indians. Relieved from all apprehension of attack, and the privation of their Spanish depots, they would have leisurely concentrated their forces, and broken the cordon at almost any point. It was then necessary to attack them, and, as in West Florida they never were imbodyed the General had either to march his whole army in pursuit of each little squad of warriors, and exterminate them in detail, or to adopt such measures as would relieve his army from useless toil and bloodshed, and his country from unnecessary expense. This measure was the provisional occupation of Florida. It was an act of necessity; the necessity we were under, in all cases, to protect the lives and liberties of our citizens. If the occupation of Amelia Island is justifiable, the seizure of Pensacola is still more so; for the lives of our citizens are of infinitely greater importance than the plunder of our commerce, and the security of a frontier from Indian invasion, of much greater interest than the prevention of smuggling.

To destroy the scattered parties in West Florida, Captain Boyles, with two companies of rangers, was ordered to scour the country, and his gallantry and success are well known.

In page seven of the report there is a sentence calculated to induce a belief that the terms of capitulation were forcibly imposed upon the Governor and garrison of Pensacola. These terms were proposed by the Governor himself, before surrendering the Barancas; and were fully acceded to, except in such points as affected the security of the occupancy, and the objects of the campaign.

It was unnecessary to remark that General Jackson abolished the revenue laws of Spain, (p. 6.) The capitulation engaged for the transportation of all the officers of Government, civil and military, to Havana. What then became of their revenue laws? The Governor virtually abolished them himself.

It is not a fact that all the officers of the new Government were military men. The temporary Governor, Colonel King, is an officer of the Army; but civil officers were appointed in the different departments from among citizens; and Mr. McKenzie, a native of Mobile, was placed at the head of the magistracy. The civil rights of the

inhabitants were secured to them, and in some instances particular privileges of individuals were held sacred, which were totally repugnant to the nature of our political institutions.

In the ninth page of the report, there is a remark, that, before General Jackson could make a hostile movement on the Spanish possessions, they must have "opposed him by physical, not by moral force." It is not easy to understand this distinction; but I presume the committee mean by *moral force*, the use of persuasion and instigation among the Indians, and furnishing them with arms and ammunition. If the use of such a *moral force* is not to be opposed and avenged without an infraction of natural law and the Constitution, in what a situation are we placed! The adoption of such a principle forever puts a stop to frontier emigration, and the proud spread of our hardy population. It declares to the enterprising settler of the wilderness, that it is illegal to protect him from Indian incursion; and it says to the infamous emissaries of Britain, Your safety is now secure; go among our Indians, and by gold and superstition spirit them to reiterated outrage; deluge our frontier in blood—we dare not touch you—standing under the shelter of our Constitution, your punishment would be a stab to the liberties of our country.

In regard to General Jackson's order to General Gaines to occupy St. Augustine, it is only necessary to say, that it was issued in conformity to the same principle which governed the General in all his movements in Florida, viz: That, where the Spaniards identified themselves with the Indians, by arming or sheltering them, they were to be treated as enemies in our own defence—one of the most sacred necessities imposed on man.

In page eleven, the committee ask, "If these things are admitted in the South, will not they be considered as authorized in the North? I answer, yes.

It is needless to remark on that part of the report which regards the execution of Arbuthnot and Ambrister. The committee admit, "that, having left their country and united their fate with savages with whom the United States were at war, they forfeited their claim to the protection of their own Government, and subjected themselves to the same treatment which ought, according to the principles and practice of the American Government, to be extended towards those with whom they were associated." If their crimes merited punishment, (and where in the catalogue of depravity can we find a blacker crime than the excitement of savages to butcher women and children?) and the civil powers of our country had no jurisdiction over their acts, it remains only to state, that General Jackson had the right and the power to execute the law of nature and nations upon them. If the two great points are admitted—the guilt of the prisoners and the power of the General—what object have we in cavilling at the mode of their trial? An error in the formal part of the proceedings would not

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have proved the innocence of the accused, and of course could not vitiate the whole transaction. If the conduct of these men had been such as was imputed to them, their death was richly merited. And if it is even admitted that General Jackson in punishing such monsters erred in formalities, the establishment of their guilt and the application of the corrective not only consummated his duty, but repaired all the insubstantial defects which might have given impunity to crime.

To conclude: these remarks are presented to the world from a deep conviction that the report of the committee not only does the greatest injustice to General Jackson, but in its character and tendency is destructive of our dearest rights. Every citizen of the Republic is wanting in duty to his country who does not solemnly protest against so novel and unconstitutional a proceeding. If inquisitorial investigations can be instituted into the character of individuals, at the will of the legislative branch of our Government, why did the great framers of our Constitution give us a Judiciary and Executive? If the Senate can assume the judicial and Executive functions, why may not the President usurp the legislative power? If such a precedent is acquiesced in by the honorable body from one of whose committees it emanated, it is greatly to be feared that such an usurpation will be infinitely more dangerous than the open efforts of ambition, even when supported by the licentiousness of standing armies.

WASHINGTON, March 5, 1819.

P. S. It has been intimated that some gentlemen of the committee have expressed their regret, that all the facts on the subject of their inquiry had not been obtained before they made their report. No excuse is left them for not procuring all the facts; for, General Jackson stated to one of the select committee that he was willing to appear before them as a witness, and expose to them all the documents in his possession. It should be recollected that the General himself furnished the copy of his order to General Gaines respecting the seizure of St. Augustine.

## CIRCULAR. A.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, Jan. 11, 1818.

SIR: The Seminole Indians have raised the war-hatchet. They have stained our land with the blood of our citizens. Their war spirit must be put down, and they taught to know that their safety depends upon the friendship and protection of the United States. To accomplish this, the aid of one regiment of mounted gun-men, of one thousand men, completely armed and equipped, and to serve during the campaign, is asked from West Tennessee. Can you raise them, and be ready for the field in ten days? If you can, your General, who led you to victory on the plains of Talledega, Emuckfau, and Tohopeka, asks you to accompany him to the heart of the Seminole towns, and there aid in giving peace and safety to the Southern frontier. An answer is expected

in five days, and it is anticipated that the number required is now ready. This is a private appeal to the patriotism of West Tennessee, and is not to appear in a newspaper. If the regiment is raised and marched, all expenses for expresses shall be paid. By the return of the express, you are expected to give your opinion of the probability of the result, that preparations may be made accordingly. Colonel H. Dyer, Colonel Gibson, Colonel Williamson, Colonel George Elliott, Major William Mitchell, Major John Smith, of Montgomery county, Colonel Martin, of Williamson, and Captain F. Ellis, of Dixon county, have alone been addressed on this subject. The grade of the officers to be determined by themselves, or the platoon officers of the regiment. The officers raising companies to command them. Upon further reflection, it is requested that those officers named above, and all such as can raise a company, will meet me at this place on the 19th of the present month. Punctuality in this is much desired; and it is further requested that all those officers who have served in the late war will be confidentially notified of the foregoing. I have the honor, &c.

ANDREW JACKSON,  
Major General commanding.

True copy—J. C. BRONAUGH, U. S. A.

B.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, Jan. 11, 1818.

SIR: I have just received orders from the President of the United States to repair to Fort Scott, Georgia, with instructions to call upon the Governors of the neighboring States for such additional militia force as may be deemed necessary to co-operate with all the disposable regular troops of the Southern division, against the Seminoles. I have this night addressed circulars to several of those brave officers who served with me during the Creek campaign, under a hope that a timely address to the patriotism of our citizens will enable me to effect, by voluntary enlistment what would otherwise have to be done by drafts. I have called for one thousand mounted men, and, should the appeal prove inefficacious, will embrace the earliest opportunity of making the requisition on you for a like number of drafted militia.

I have received your letter of the 4th instant, and am happy to hear of the ratification of the treaty with the Cherokee Indians.

With respect, your most obedient servant,  
ANDREW JACKSON,  
Major General commanding.

Gov. McMINN, of Tennessee.

True copy—J. C. BRONAUGH, U. S. A.

C.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 12, 1818.

SIR: I have the honor to acknowledge the receipt of your order of the 26th ultimo, which

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reached me last night ; its contents are duly noted, and will be promptly attended to.

I have received no late advices from General Gaines, although I have for some time expected the return of the express sent to him on the 24th of November last. Taking into view the strength of the Seminoles and their adherents, as reported to you by General Gaines, and the aggregate of his strength, regulars and militia, amounting to about one thousand eight hundred men, which cannot possibly afford a like number of effectives; considering, likewise, that the greater portion of his forces are draughted militia, from Georgia, who may apply for their discharge at the expiration of three months from the time they were first mustered, and who may be disposed to claim this right, and abandon the campaign, about the time I could reach Fort Scott, I have deemed it both prudent and advisable to call from the west end of the State of Tennessee for one thousand volunteer mounted gun-men, to serve during the campaign. With this force, in conjunction with the regular troops, I can act promptly, and, with the smiles of Heaven, successfully, against any force that can be concentrated by the Seminoles and their auxiliaries. Viewing, however, the lives of our citizens as too precious to be risked in a contest with savages, with the odds of two to one, unless where real necessity demands the exposure, I have therefore written to the Governor of Georgia to continue in the field the one thousand men required by General Gaines.

The result of the appeal I have made to the patriotism of those brave men in West Tennessee, who have so often followed me to the field of danger, will be known by the 19th instant, and I hope to leave this for Fort Scott on the 22d. Of my movements, and success in raising the mounted volunteers, you shall be advised.

It may appear to the Government, on the first view, that mounted men are the most expensive ; but when we consider the rapidity of their movements, the amount of quartermaster's expenditures for pack-horses, baggage-wagons, and other means of transport indispensable to footmen, in this instance saved, mounted gun-men, as auxiliaries in such a campaign as the one contemplated, will be found to save both blood and treasure to the United States. The volunteers that have been invited to the field are of tried materials, and such as can be relied on in the day of danger and trial. With respect, &c.

ANDREW JACKSON,  
*Major General commanding.*

Hon. J. C. CALHOUN, *Sec'y of War.*

True copy :

J. C. BRONAUGH, *U. S. Army.*

D.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, January 13, 1818.*

SIR: Being advised that the assistant deputy quartermaster general of General Gaines's brigade has resigned, and being unadvised as to quartermaster's funds within the seventh department, I have to request that necessary funds be

forwarded to Quartermaster General Gibson, at Fort Scott, whom I have ordered to meet me at that place without loss of time.

Should the one thousand volunteer mounted gun-men attend to my appeal to their patriotism, I shall send on a confidential agent to Georgia, to have the necessary supplies for them procured and forwarded by the quartermaster, if any there, to Fort Gaines ; and, if none, by the agent sent, with instructions to draw on Quartermaster General Gibson for the amount of his purchases ; this is done to facilitate the march of the volunteers called for. I need not observe that, without quartermaster's funds, an army cannot be wielded either with promptitude or effect. Promptitude in the present campaign will be a great saving to the United States, both in character and purse.

I have the honor to be, &c.

ANDREW JACKSON,  
*Major General commanding.*

Hon. JOHN C. CALHOUN, *Sec'y of War.*

True copy :

J. C. BRONAUGH, *U. S. Army.*

E.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, January 19, 1818.*

SIR: I am instructed by the commanding General to direct that you march your volunteer regiment of mounted gun-men to Fayetteville, to be there on the 31st instant, completely armed and equipped, and prepared to march for Fort Scott, in Georgia, for a six months' tour. Your troops will furnish themselves until they reach Fayetteville, with their own provisions and forage ; the former of which will be reimbursed them by the contractor, and the latter by the Quartermaster.

I have the honor to be, &c.

J. M. GLASSSELL, *Aid-de-camp.*

To Colonels DYER & WILLIAMSON.

True copy :

J. C. BRONAUGH, *U. S. Army.*

F.

HEADQ'RS, DIVISION OF THE SOUTH,  
*Nashville, January 20, 1818.*

SIR: I have received your letter of the 18th ultimo, and have to regret the situation in which you are unfortunately placed. Every effort will be made, however, to relieve you. I shall leave this for Fort Hawkins on the 22d ; and two regiments of mounted volunteers will rendezvous at Fayetteville, Tennessee, on the 31st instant, and proceed, by forced march, direct to our Southern frontier.

The commanding officer of the Georgia militia has instructions, this day, not to invite a general engagement with the Indians, but at all hazard to aid you in relieving Major Muhlenburg.

ANDREW JACKSON,  
*Maj. Gen. com'g Div. of the South.*

Col. ARBUCKLE, *com'g at Fort Scott.*

True copy :

J. C. BRONAUGH, *U. S. Army.*

*Seminole War—Strictures on Mr. Lacey's Report.*

H.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 21, 1818.

SIR: You will repair to Fayetteville, Tennessee, on the 31st instant, and there muster and receive into the service of the United States for six months, if not sooner discharged, two regiments of mounted volunteers. As soon as mustered, you will assume the command of these troops, and make every preparation to facilitate their march, via Fort Jackson by the most direct and practicable route to Fort Scott, on the Flint river. You are authorized to organize and appoint such a brigade staff as you may deem necessary to the accomplishment of the duties assigned you. Every confidence is placed in your known activity and skill—and you are clothed with all discretionary power to facilitate the march of the volunteers to the designated post.

ANDREW JACKSON,

Maj. Gen. com'g Div. of the South.

Col. A. P. HAYNE, *Inspector General.*

True copy:

J. C. BRONAUGH, *U. S. Army.*

I.

DEPARTMENT OF WAR, March 7, 1818.

SIR: I have had the honor to receive your letter of the 9th, and that of the 15th ultimo.

I have the pleasure of expressing to you my entire approbation of the measures you have adopted to insure a prompt movement of the patriotic volunteers confided to your command.

It is a subject of regret that there is no public arsenal for that section of the country, from which arms and equipments could be drawn. The course which you have taken to remedy the evil, I trust, will be effectual. So far as it may be practicable, let the arms be preserved, and returned after the campaign closes to the owners. Where this cannot be done, let the account, properly vouched, be paid by the Quartermaster's Department.

The bill drawn on account of supplies of every kind will be paid when presented to this Department. Upwards of one hundred thousand dollars have been forwarded to the paymasters of the fourth and seventh regiments, for the payment of the militia before they are discharged. General Jackson will adopt such measures as may be proper to secure this object. The desire of the President, that the disbursing officers of the regular forces should be charged with the expenditures of the campaign, is the only obstacle to appointing the gentlemen recommended by the officers of the Tennessee brigade. Every attention will be given to secure the object of their wishes.

I am well aware of the difficulties to be overcome, to organize efficiently and satisfactorily to the officers and men, a volunteer corps for the field. In the present instance, the pride and spirit of veterans, aided by patriotism, and directed by experienced intelligence, have handsomely surmounted every obstacle. The alacrity with which the brave Tennesseans have again re-

sumed their arms in defence of the country, is a sufficient earnest that their efforts will be successful, and that their efficiency, joined to the gallant exertions of other corps, will speedily terminate the conflict. I have the honor to be, &c.

J. C. CALHOUN.

Col. A. P. HAYNE,  
*Inspector Gen., Fort Scott, Ga.*

K.

*Extract of a letter from J. C. Calhoun, Secretary of War, to Major General Andrew Jackson, dated 29th January, 1818.*

"Your letters of the 12th and 13th instant are received. The measures you have taken to bring an efficient force into the field are approved, and a confident hope is entertained, that a speedy and successful termination of the Indian war will follow your exertions."

[EXTRACT.]

DEPARTMENT OF WAR, Feb. 6, 1818.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th ultimo, and to acquaint you of the entire approbation of the President, of all the measures which you have adopted to terminate the rupture with the Indians.

The honor of our army, as well as the interest of our country, requires that it should be as speedily terminated as practicable; and the confidence reposed in your skill and promptitude assures us that peace will be restored on such conditions as will make it honorable and permanent.

I have the honor, &amp;c.

J. C. CALHOUN.

Major Gen. A. JACKSON,  
*Fort Scott, Georgia.*

M.

ROBERT BUTLER, Adjutant General of the southern division of the Army of the United States, being duly sworn, testifies, that, in the Summer or Fall of 1817, Mr. John Donelson, of the neighborhood of Nashville, went to Pensacola and purchased lots of land there, with the approbation of the Governor. That the deponent has heard that Mr. James Jackson of Nashville was concerned with him, and was the only person concerned. He also understood that Donelson's first view in going to Pensacola, was for the benefit of his health. That Mr. Donelson is nephew of General Jackson's wife. That he does not know the amount of Donelson's purchase. That he does not know, nor does he believe, that General Jackson had, or expected to have, any interest in said purchase; nor did he ever hear it suggested.

The deponent further saith, that on the 11th January, 1818, General Jackson addressed a circular to the old volunteer officers, to raise volunteers for the Seminole campaign, in which the following clause is found: "The grade of the officers to be determined by themselves, or the platoon officers of the regiment—the officers raising companies to command." The deponent has

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heard that an election was held, and the rank of the field officers established in that way, and not appointed by General Jackson, as stated in the deponent's affidavit before the committee of the Senate as positive, when the deponent then stated it as matter of opinion only; also, that the Governor of Tennessee was at Nashville, which it appears from reference to papers was not the case. The deponent further states, that General Jackson received information at St. Mark's on his return from Suwanee, that there were about six hundred hostile Indians at Pensacola, who received ammunition and provisions from the Governor; in consequence of which the General ordered Lieutenant Sands, of the artillery, to Mobile, to hold two pieces of the field artillery in readiness for his orders. On the arrival of the army at Fort Gadsden, the General received information of several murders having been committed on the Federal road, and was shown a letter, said to be private, from a gentleman at Pensacola to Mr. Doyle, as the deponent believes, stating that a large number of Indians were then in Pensacola, and depredating on the property of the citizens; this information determined the General to change his route for Tennessee by Pensacola, and orders were given to Colonel Gibson to proceed to Mobile, and afford Lieutenant Sands every facility in moving the artillery to Fort Montgomery, to await the General's order, which was given on nearing the Escambia by express, requiring the artillery to form a junction with the army after crossing that river, which was executed. The General remarked to the deponent on march to Pensacola, that, if he found the information true on reaching that place, he would demand a surrender of it; and the deponent believes that the determination of the General to occupy Pensacola and Barancas, was made on receiving the protest of the Governor, and learning that his provisions were stopped by him at the former place.

That, at the time the army attacked Mickasukey, there were not more than five hundred Indian warriors imbodyed; nor does the deponent believe there were, at any time during the war, more than five or six hundred imbodyed at any one place. That, from the nature of the subject, this statement must be conjectural. That the enemy's warriors were in general well armed. That deponent was told there were about thirteen hundred souls at Suwanee, of which two hundred and fifty or three hundred were fighting men. That our army had one man killed and four wounded, in actions with the Indians, during the campaign, and two killed at the Barancas.

Deponent further says, that General Jackson received from a private source, a plan of the fortress of St. Augustine; and, as the deponent believes, it was sent to the General, at St. Mark's, or Fort Gadsden, after his return from Suwanee.

That General Jackson had under his command, in Florida, from recollection, about eighteen hundred regulars, volunteers, and militia, and about fifteen hundred Indians under McIntosh; and that the Indians were received and mustered

into the service of the United States, under the orders of brevet Major General Gaines, and mustered out of service, under the orders of Major General Jackson, by a regular officer.

This deponent deems it due to himself to state, that the deposition published with the report of the committee of the Senate, under his name, was not written by him, but was taken down by Mr. Burrill, of that committee, and a promise given to the deponent that, when it was thrown into form, it would be submitted for correction and signature, which was not done, although the committee were twice informed by one of its members, at the request of the deponent, that parts thereof were not correct; hence the deponent was not able to give the necessary correction which he would have done, from an examination of papers and necessary reflection.

ROBERT BUTLER.

N.

WASHINGTON, March 3, 1819.

On an examination before the special committee of the Senate, on the subject of the Seminole war, I was told by the honorable Mr. Burrill, one of the committee, that what he (Mr. Burrill) then took down of my testimony, was a memorandum; and if used, that my deposition should be written out, and submitted to me for correction. The deposition was not submitted; but was sent at once to the printer; who, believing that several words were omitted, sent it to me for revision; I then waited on two of the committee, Mr. Lacock and Mr. Burrill, and obtained leave to strike out a part, but they would not permit me to make any additions. The parts struck out were not material. What I wished to add, was the substance of an order, the following extract from which I beg leave to make a part of this deposition.

*Extract of an order to Colonel Gibson, dated*

"CAMP, 26 MILES EAST OF ST. MARK'S,  
April 24, 1818.

"General McIntosh and his warriors will be at Fort Scott, and will probably take much of the supplies ordered up; and, as the Tennessee volunteers will pass from Gadsden to that point, he wishes you to despatch a boat with a further supply; and should the corn have arrived from New Orleans last ordered, you will forward a considerable quantity, also, to enable the volunteers' horses to reach Fort Hawkins."

"ROBERT BUTLER,  
Adjutant General."

The order from which this extract is made, together with the order from which the following is extracted, were submitted through Mr. Eaton to the committee. I beg leave also to make the second extract a part of this deposition, to wit:

*Extract of another letter to Colonel Gibson, dated*

"BEFORE ST. MARK'S, April 9, 1818.

"This is carried by one of those deluded wretches who have asked for peace, and it is



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granted them—17 men, 18 women, and 30 children have surrendered, and they ask permission to pass by water to Fort Gadsden; this is granted them, and they will remain here until the runner returns, by whom you will write to the commanding officer of St. Mark's, Captain Vashon, under what badge you will know them.

"ANDREW JACKSON."

Signed,

GEO. GIBSON.

DISTRICT OF COLUMBIA,

*County of Washington, to wit:*

On this third day of March, 1819, George Gibson personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, and made oath, in due form of law, that the matters and things as set forth in the annexed statement, are true as stated.

Sworn before JOSEPH FORREST.

*From the National Intelligencer of March 20, 1819.*

MR. LACOCK'S REPLY TO THE FOREGOING  
"STRICTURES," &c.

Having recently seen, in the National Intelligencer, Strictures of an erroneous character, upon a report made by a select committee of the Senate, on the subject of the Seminole war, and being the only member of that committee now at the Seat of Government, it seems to be a duty I owe to the Senate of the United States, to the committee of which I was a member, and to my own character, to offer some remarks on those Strictures. In the first place it is necessary to observe, that, on applying to the editors of the National Intelligencer, I was informed by them, in writing, that they were authorized to give up, as the authors of the strictures, the names of two officers of the Army of the United States. Could I have brought myself to believe that those young men\* were the real, as they were the ostensible, authors of those strictures, they would have been treated with silent pity and commiseration, and their production would have remained forever unnoticed by me. But charity for those men, and the peculiar circumstances of the case, forbid this conclusion. We must look to a higher source for their author. Those young men were aids to General Jackson, or belonged to his military family. Some of the documents annexed to the strictures were, it seems, furnished from his own private bureau, for they could not be obtained in the War Office. The personal invectives indulged

\* Those officers were examined by the committee; they discovered (but more especially one of them) talents, and much energy of character, that, if tempered with prudence, cannot fail to make them useful members of society; and a tenderness for them, bordering on parental regard, has induced me to withhold their names from the public, knowing that "public rebuke hardens the heart," and believing that, when they have numbered my years, they will look back on the unguarded follies of youth with sorrow and remorse.

in, the strictures, correspond entirely with his previous observations in the public taverns and ball-rooms of Washington; for it is a fact notorious, and cannot be denied, that on those occasions he was vociferous in his imprecations, and violent in his threats, of personal vengeance, even to cutting off the ears of some of the members of the select committee, and this while the subject was before the Senate; and some members of the House of Representatives who dared to animadvert upon his conduct, or even to doubt his infallibility, were menaced in nearly a similar manner. Under these circumstances, there seems to be no unfairness in considering that General Jackson is the real author of those strictures, or at least that he approved of and assented to the publication;\* and that those gentlemen (with more gallantry than prudence) were induced to step forward and take upon themselves a responsibility that the General himself felt unwilling to encounter. And it is for him to decide how far it was just and proper for age and experience to take advantage of the exuberant ardor of youthful feelings and attachments, and by this means induce the officers in question to hazard their reputation and future prospects in the Army, by acts of inconsiderate rashness. As citizens of the United States, they were entitled to equal privileges with all others. As military officers, they were held strictly subordinate to the civil power. An act of Congress declares, that every officer shall be cashiered, or otherwise punished by court-martial, who shall even speak contemptuous or disrespectful words of the Congress of the United States, or of the Legislatures or Governors of any of the States in the Union. And, by rules and regulations established in the Army of the United States, the officers are forbidden, under like penalties, from publishing in newspapers, or otherwise, observations disrespectful of each other.

And it is believed that this is the first instance in which a military officer, whose conduct was the subject of investigation before the Congress of the United States, has ventured to charge that body with a violation of the Constitution, and with exercising inquisitorial power.† Or that a committee of either branch of the National Legislature has been charged with the "most wanton and studied disregard to truth," and the most "foul" and "dishonest motives." But how far it is either for the honor or interest of the nation thus to submit to military dragooning and newspaper chastisement, by military officers who, it is believed, visited the Seat of Government for that purpose; and how far a committee of the Senate of the United States should be subject to this kind of discipline, for the conscientious discharge of official duties, imposed by the unani-

\* If the reader entertains any doubts as to the authorship of the Strictures, they will be removed on reading the deposition of Colonel Orr, in which it will be seen, that General Jackson obtained from him a fact which he asked leave to make use of, and that the fact is made use of in the Strictures.

† See the last paragraph of the Strictures.

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mous voice of that body, is for the proper authorities to determine.

I shall now state faithfully the proceedings had in the Senate and before the committee, on this subject, pledging myself, and appealing to others, for the correctness of every fact stated.

On the 18th November, 1818, the President's Message to both Houses of Congress was received. In this Message the President refers to the Seminole war, and promises to present to Congress the documents respecting it.

On the 4th December, 1818, this volume of documents was received in manuscript and sent to the printer. On this day (and not on the 18th, as stated erroneously in the strictures) the resolution was offered in the Senate, for raising the committee on this subject; it was considered on the 7th, and postponed from time to time, until the 18th December, when it was modified and enlarged, on motion of Mr. Eaton, and unanimously adopted. This delay was occasioned by the Senate's not having previously received the documents from the printer.

There had, however, been made, in the Senate, a call on the President, for further information on this subject, and this resolution, offered on the 16th December, was agreed to on the 17th, and the call was complied with on the 28th December, by Message, and another volume of documents furnished.

These documents were not received from the printer until the 1st or 2d February, 1819. But a copy of them had been received by each member of the Senate, through the medium of the House of Representatives, to whom they were first sent, on the 27th or 28th January, and, on the day they were received, the committee were called together. At this meeting all the members being present, Mr. King made a motion that the committee should ask the Senate to discharge them from the further consideration of the subject. The question on the motion was put, and, four members voting in the negative, it was of course lost.

And, at this time, the committee ordered, under the authority of the resolution of the Senate, that the Aids of General Jackson, and such other persons as the chairman might think necessary, should be summoned before the committee for examination.

This order was complied with, witnesses were summoned, and the examination proceeded, from day to day, as the witnesses appeared, subject only to the delay and interruption that arose from the indispensable necessity the members of the committee were under, of attending to their other official duties.

Thus the inquiry was prosecuted, until the committee were told by the chairman, that he knew of no other evidence that it was in his power to obtain. And at this time, as on former occasions, particular inquiry was made of the members of the committee generally, and of Mr. Eaton particularly, whether it was known that further testimony could be obtained, or whether they wished that other witnesses should be sum-

moned, and the answers to these inquiries were, in the negative.

The testimony being thus considered as closed the nature of the report to be made to the Senate was then discussed, and all the points involved by the conduct of General Jackson, on which there could be any doubt, were distinctly stated in writing, and separate questions taken on each of them. On the first point, of raising and organizing the volunteers, the unanimous voice of the committee was, that it was illegal. The second point, the right to pursue the enemy into Florida, was decided unanimously in the affirmative. And on several other points, the committee were divided, three disapproving the conduct of the commanding General, and two justifying or excusing it.

The decision of the committee being thus had, the chairman was ordered to prepare a report in conformity to the principles established by the committee. About this time, however, another circumstance took place, which necessarily occasioned some delay in obtaining further evidence.

Mr. Eaton informed the chairman of the committee, that he had heard General Jackson say, at his lodgings, that, after he had left the Floridas, he had issued an order to General Gaines, to take possession of St. Augustine, and that this order had been countermanded by the Department of War.

The chairman having ascertained this to be the fact, by a letter dated February 8, called on the Department for this correspondence, which was furnished on the evening of the 12th of the same month.

These documents never before having been called for, were not previously transmitted; nor was this design of taking St. Augustine, (after the close of the war,) known to the committee until this disclosure; and it was thought necessary that the documents should *accompany*, and be taken notice of in the report. If further evidence be necessary to convince the most incredulous "that no improper or unnecessary delay was observed in making the report," it will be furnished by the following facts: The Senate of the United States is connected, by the Constitution, with the Executive, in the exercise of the treaty-making power.

On the 9th or 10th of February, the chairman of the committee was confidentially informed that the treaty with Spain would probably be brought to a favorable result, in a short time; and a suggestion was made, that a report on the subject of the occupation of Florida might, by possibility, affect the negotiation, if made previous to the signing of the treaty.

These facts and suggestions were immediately communicated to a majority of the members of the committee, and more especially to Mr. King, whose experience in diplomatic concerns gave him a full opportunity of forming a correct judgment on the subject.

This gentleman, with two other members of the committee, besides the chairman, agreed that the report should be kept back a few days; until

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the treaty was received. On Monday, the 22d of February, this treaty was sent to the Senate; on the 24th, it was ratified; and, on the same day, the report was made. And this accounts for the only delay that was not occasioned by the difficulty of obtaining the evidence proper to an understanding of the case, and which it was impossible for the committee sooner to obtain.

Thus it appears that the charge, in the strictures, that the report was kept back to injure General Jackson, is totally without foundation. And it is equally untrue that "*his friends*"\* on the committee had no opportunity of making a defence. The same time was afforded them to make a defence, that was given to the chairman to write the report. They were present when the decision of the committee was made, and the chairman received his instructions. A counter statement might have been prepared and offered, in the manner pursued by Colonel Johnson, in the House of Representatives; or, if this course should have been thought ineligible, or irregular when the report was made to the Senate, it might have been called up at any time, and a resolution offered, approbating or excusing the conduct of General Jackson, and this resolution might have been prefaced by reasons at large, in opposition to the reasons offered by the committee, and thus the minority on the committee would have had a full opportunity of laying before the public the result of their deliberate opinions on the subject. Neither is it true, "that the chairman declined annexing the customary resolutions to the report." But, on the contrary, the fact is known to every member of the committee that, when the chairman presented the report, the question was put by him, whether resolutions should be annexed, and the committee decided unanimously in the negative. But it appears, by the strictures, that the chairman of the committee has been almost the sole actor on this occasion, and has had the entire control of the committee, and of the Senate.

The author of the Strictures, in thus giving importance to the individual concerned, has unintentionally done him too much honor, the acceptance of which, at the expense of the Senate, he begs leave to decline, desirous, as it relates to himself, of being only considered what the Senate had constituted him—the chairman of the select committee. As their organ, he was subject to their control, and acted in conformity to their instructions; as, in like manner, the committee was controlled by the Senate, and bound to observe the instructions received from that body.

And it was a source of no small gratification to the committee to find that their conduct in the investigation was approved by the Senate, and that it was so approved is manifest from the following facts:

\* The word "*friends*," is used as a quotation from the Strictures. It is certain that General Jackson had not an enemy on the committee, although his conduct was disapproved.

On the 17th February, 1819, Mr. Forsyth, a member of the select committee, resigned his seat in the Senate, and of course was no longer a member of the committee; and, on the same day, a resolution was offered in the Senate proposing that another member should be added to the committee in the place of Mr. Forsyth. On this question a discussion took place, and it was expressly and repeatedly stated that the remaining members of the committee were equally divided; that, unless the vacancy was filled, no report could be made to the Senate. The nature of the report to be made, and the additional evidence procured, was also fully disclosed.

The members of the committee opposed to the report, particularly Mr. King, stated to the Senate that his object was, that the committee should be discharged; and, that the Senate's refusing to add another member to the committee would be equivalent to discharging the committee; and, with this understanding, to try the principle, and take the sense of the Senate in discharging the committee, Mr. Eaton moved the postponement of the resolution before the Senate to a day beyond the session, and on this question the yeas and nays were called—16 members voting in favor of the postponement, and 21 against it.\*

Thus it appears that the select committee of the Senate was appointed by the unanimous voice of that body; that they were with the same unanimity vested with powers to send for persons and papers, and specially instructed to make the investigation; and that, after the investigation had been made, the facts disclosed, and the substance of the report, then prepared, were made known to the Senate.

That body, by a strong majority, refused to release them, and held them to a discharge of their duty; so that it is not the committee alone, but the Senate of the United States, that should be considered, as they really are, responsible for this transaction, not, unfortunately, to a military *chieftain*, or *subalterns in the army*, but to the American people.

*It is not the fact*, as stated by the author of the strictures, that General Jackson was charged in the report, with acting from mercenary motives and views of speculation in Florida lands. No such charge was made; neither can such a charge be fairly inferred from any part of the report.

The words selected by the writer, and which are tortured into such a charge, are these: "The tendency of these measures of the commanding General seems to have been to involve the nation in a war without her consent, and for reasons of his own unconnected with his military functions."

In these observations, there is no charge of the nature complained of, either expressed or implied, nor was any such designed; and it must have been extreme sensibility on this subject that could have induced the author to have

\* See the annexed extract from the Journals of the Senate.

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drawn such an inference. The plain and obvious meaning of these words are, that General Jackson, as a military officer, had no right to judge what was cause of war with a neutral, and his attempting to reason and act on this subject was an usurpation of the civil powers of the Government, and, of course, unconnected with his military functions.

But, since so much anxiety has been discovered on this branch of the subject, and so much pains taken to refute a charge never made on General Jackson, but by the author of the strictures, it may not be amiss to state, that, had the committee been disposed to receive and give credit to such hearsay evidence as that on which Arbuthnot was hung, there might have been more necessity for the elaborate defence set up on this point.

And thus it must be seen, notwithstanding what is said in the Strictures, that the committee were disposed to deal, not only with fairness, but with tenderness, towards General Jackson. He was heard by his staff; his bosom friends, and the members of his own family, were selected as the witnesses; and, when a call was made in writing on the Secretary of War, for information, it was sent to General Jackson, and the inquiries made by the committee were answered by him; and he goes at large into the reasons that induced him to occupy Pensacola. This letter of General Jackson's was received and considered by the committee, and will be found among the documents accompanying their report. Thus, it must appear, to every unprejudiced mind, that General Jackson had not only an opportunity of being heard before the committee, and of furnishing all the documents in his possession, but that the committee were anxious, as well on his account as on account of the character of the nation, to obtain evidence in justification of his conduct.

It now becomes necessary to take some notice of the deposition of Colonel Butler annexed to the Strictures. This gentleman was examined before the committee, and his testimony was taken down by Mr. Burrill, a member, and afterwards read to him, and he assented to it as written. After which, on a subsequent day, when some other witnesses were examined, it appeared there was a material variance, on a particular fact, between their evidence and that of Colonel Butler; and it was mentioned to Mr. Eaton, by the chairman, that the probability was, that the Colonel had been mistaken as to that fact, and advised him to mention the circumstance to him, that if, on reflection, he should think he had fallen into an error, he might be able to correct it. This information was given to Colonel Butler, as Mr. Eaton afterwards stated, and the Colonel sent word, by Mr. Eaton, that he had, on reflection, discovered his mistake, and desired the committee to alter his deposition; but Mr. Eaton was requested to inform the Colonel that he must attend to it himself; that it could not be done in his absence, and on the suggestion of another.

It is true that Mr. Burrill did state to the officer examined, that he would write out his deposition in a fairer hand, and he would be called upon to sign it. But it is a fact equally true, and which should have been stated in Colonel Butler's last deposition, that those officers left the city before time was given for the depositions to be made out, and remained absent until near the close of the session, and after the report and documents were printed. It was not to have been expected that, after the fairness, as well as the kindness, of the committee, towards Colonel Butler, as it regarded his testimony, that he would, on his oath, afterwards have indulged himself in any reflections on that committee; more especially when it is considered (if the Strictures be true, and it is believed they were written under his eye) that he was mistaken in another fact that was stated by him—that of the Governor of Tennessee being in Nashville when General Jackson called out and organized the volunteers. There is no disposition felt to injure the feelings of Colonel Butler, but he should not have invited discussion on a subject of such delicacy to himself.

But, to silence forever all clamor on the subject of depositions, and to remove every doubt from the minds of the most suspicious, they are referred to the original depositions themselves, on file in the office of the Secretary of the Senate, and in the very words used by them, and written by Mr. Burrill, and examined and approved by the witnesses themselves. And, if the trouble be taken to compare the original depositions with the printed copies, it will be found that not a single alteration was made but those of a verbal nature, except in the deposition of General Gibson, in two paragraphs, which were made by himself, and at his own hand, in the presence of Mr. Burrill and the chairman, and after his deposition was in the hands of the printer.

Having already observed that General Gibson had made some alteration in his first deposition, it is necessary, for a correct knowledge and explanation of this subject, to refer to his second deposition, as it appeared in the *Intelligencer* of the 10th March. In this it is stated, that Mr. Burrill and the chairman had refused to let him add to his statement two letters that he considered necessary to illustrate the subject. It is true that General Gibson was told, that he might strike out what he thought proper from the deposition, but he could not add any new facts; for that could only be done by a majority of the committee when authorized to call for and examine witnesses; that the committee on the subject of the Seminole war, having made their report, was out of existence, and no power remained with those members who had composed that committee more than any others of the Senate. General Gibson then stated, that "he had given the letters in question to Mr. Eaton, of the committee, some considerable time before, and requested him to lay them before the committee and have them attached to his deposition." General Gib-

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son was then informed that "no such letters had been put in possession of the committee by Mr. Eaton." This conversation took place in the Secretary's office, while the Senate was in session. On my return to the Senate Chamber, Mr. Eaton was asked by me, privately, whether or not such letters had been received by him from General Gibson, he said, "they had, and he had not thought proper to lay them before the committee."

All those facts relative to the letter were afterwards stated by me, in my place, when the Senate was in session; and Mr. Eaton was called upon to state whether he had not received such letters and withheld them from the committee; and he stated to the Senate that he had, and that he never had submitted them to the committee. Thus it will appear that, so far from refusing to admit the introduction of those papers into the statement of General Gibson, the committee never knew of their existence until after the report was made. It is but fair to observe that General Gibson has been long known to me, and no one is more willing to subscribe to his correctness as an officer, and private worth as a man; and it is confidently believed, that, when convinced of the fact, that he has charged the committee with an impropriety of conduct, that, if improper, can but attach to a single member, he will rejoice at having an opportunity of correcting the error.

In a postscript to the Strictures, it is stated that General Jackson told a member of the committee that he was willing to go before them and disclose all the documents in his possession.

If General Jackson did say this to a member, it must have been designed as an insult to the committee and to the Senate; he must have considered that body in the light of subalterns in the Army, and he therefore *condescends* to tell them that *he is willing* to appear before their committee.

That committee was vested by the Senate with full power to call every officer in the Government before them, and it was not necessary for the General to have given this evidence of his great condescension, to have put them in mind of the extent of their powers, or their obligations of duty to the Senate.

The reasons for not calling General Jackson before the committee were of a different character, arising from the peculiar situation in which he officially stood, and his connexion with the subject of inquiry. But, if the General was willing to disclose other documents to the committee, why were not those documents transmitted to the Executive Department of the Government and filed in the War Office, from which they might have been obtained; or, are we left to presume that General Jackson is in possession of facts of an official nature, that he will not *condescend* to lay before the President of the United States, to whom he *should feel* himself responsible for his conduct?

There is one charge in the Strictures that applies exclusively to the chairman of the committee—that of being a partner with the contractor; the fallacy of this charge, as well as its deliberate

design to inflict a private injury on a man, whose only offence was an independent discharge of official duties, is fully proven by the annexed deposition of the contractor himself, Colonel Benjamin G. Orr, who is now the Mayor of the City of Washington.

I shall now close these observations, which have been extorted from me by the peculiar and violent character of the Strictures in question, and the source from whence they emanated. It is hoped, for the honor of the nation, as it is the first, that it may be the last occasion that may occur, to impose a similar duty on a member of the National Legislature: that in future no military officer of Government, either humble or exalted, will so far lose sight of the duty and respect due to the civil authorities of the nation, as to fall into similar errors; and, if reason were for a moment allowed to assume its empire in the minds of the most violent among them, it would be discovered, that inevitable disgrace to the individual concerned would be the consequence of such measures, perhaps the prostration of the army, whose very existence does and ought to depend on a conviction in the public mind, that the Military Department of the Government is subject to and subordinate to the civil powers.

While this principle is practically observed by officers of the army, that establishment will be found useful, but, once abandoned, the army becomes dangerous to public liberty, and ought and should be reduced.

These observations arise not, as is alleged, from "splenetic hostility to the army," but from a sincere desire to preserve and make it useful; and time will discover, unless a change of conduct is observed, that the deadliest enemies of the army are to be found in some of the officers who command it. And under these impressions, and in the spirit of sincere friendship to those officers, the writer ventures to tender to them this honest advice: That they chasten and moderate their tempers, and restrain the violence of their rage against the civil officers of Government, and, instead of cutting off the ears of members of Congress, sharpen their swords to meet their country's enemies in the field, when they shall be so directed by the civil powers. Let them "cease to do evil, and learn to do well;" never forgetting that they too are subject to legal control, and but, at best, "subordinate" servants in the great political household.

If this advice be taken, their former transgressions may be forgiven and forgotten by a magnanimous people, who still remember, with gratitude and pride, their former services. But if this wholesome and friendly advice be disregarded; and if, in despite of the dictates of prudence and reason, they will persevere in this career of madness and folly, they must perish in their military sins, and will perhaps, when it is too late, be fully convinced that it would have contributed to their true interest and honor, to have listened to and followed the frank and candid admonitions of their friend, &c.

A. LACOCK.

*Arrest of Captain Obed Wright.**Extract from the Journal of the Senate.*

WEDNESDAY, February 17, 1819.

Mr. LACOCK submitted the following motion:  
*Resolved*, That a member be added to the committee already appointed on the subject of the Seminole war, in place of Mr. Forsyth, who has recently been appointed to a foreign mission.

On motion of Mr. Eaton,

That the further consideration thereof be postponed until the 5th day of March next, it was determined in the negative—yeas 16, nays 21.

On motion of Mr. Lacock,

The yeas and nays being required by one-fifth of the members present, those who voted in the affirmative, are—

Messrs. Crittenden, Dickerson, Eaton, Edwards, Fromentin, Johnson, King, Leake, Morrow, Otis, Ruggles, Sanford, Stokes, Storer, Williams of Mississippi, and Wilson.

Those who voted in the negative, are—

Messrs. Barbour, Burrill, Daggett, Eppes, Gailard, Goldsborough, Horsey, Hunter, Lacock, Macon, Mellen, Noble, Palmer, Roberts, Tait, Talbot, Taylor, Thomas, Tichenor, Vandyke, and Williams of Tennessee.

The motion having been agreed to—

*Ordered*, That Mr. Eppes be the member.

## WASHINGTON COUNTY,

*District of Columbia, to wit:*

Personally appeared before the subscriber, a Justice of the Peace for the county aforesaid, Benjamin G. Orr, and made oath on the Holy Evangelists of Almighty God, that Abner Lacock, Esq., late a Senator from the State of Pennsylvania, was not directly nor indirectly concerned with him in any contract which he has had with the War Department, at any time, and particularly with that for the State of Georgia, which the author of the Strictures, on the report of the select committee, says "it has been intimated that" he "was interested" in, neither was his son at all concerned further than as an agent, at a stated salary per annum.

The deponent further says, that, a few days prior to the appearance of the "strictures," in conversation with General Jackson, on the subject of the report of the committee of the Senate, he was asked by the General, if Mr. Lacock, who had been his agent at Fort Scott, was the son of the Senator of that name, and, on being answered in the affirmative, he further asked, if he might so state it; the deponent replied, that as a fact, he might dispose of it as he pleased; but that he could not perceive any connexion between it and the subject of the report of the committee; and, having been told that morning that a suspicion was entertained that General Lacock had been a partner in his Georgia contract, the deponent took that opportunity of assuring General Jackson that it was wholly without foundation, which the General admitted he had been apprized of. And further this deponent saith not.

Sworn before me, this 17th day of March, 1819.

JOSEPH FORREST.

## ARREST OF CAPTAIN OBED WRIGHT, OF THE GEORGIA MILITIA.

[Communicated to the House, December 18, 1818.]

*To the House of Representatives of the United States.*

In compliance with the resolution of the House of the 10th instant, I transmit a report of the Secretary of War, with copies of the correspondence between the Governor of Georgia and Major General Jackson, on the subject of the arrest of Captain Obed Wright.

JAMES MONROE.

DECEMBER 12, 1818.

WAR DEPARTMENT, Dec. 12, 1818.

In compliance with the resolution of the House of Representatives of the 10th instant, the Secretary of War has the honor to transmit to the President of the United States copies of the correspondence between the Governor of the State of Georgia and Major General Jackson, relative to the arrest of Captain Obed Wright, transmitted by them to this Department.

J. C. CALHOUN.

EXECUTIVE DEPARTMENT, GEORGIA.

*Milledgeville, June 1, 1818.*

SIR: You will no doubt have been informed by General Jackson, ere this reaches you, of an unfortunate attack recently made by a detachment of Georgia militia, under command of Captain Obed Wright, on a village in the Creek nation of Indians, situated on the west side of Flint river, generally known by the name of Chehaw.

In order to bring the circumstances of this transaction fully before you, I must beg leave to refer you to a copy of a letter written by myself to General Jackson, (herewith enclosed,) by which you will perceive, that soon after the army entered the nation, and passed Fort Early, the Indians in that neighborhood, especially from two towns situated on the east side of Flint river, generally denominated Hopaunees, and Philemees, from chiefs of that name, had recommenced their depredations on our frontier. After having waited a considerable time in expectation of receiving an answer from the General, but in vain; and being repeatedly and earnestly requested by the distressed inhabitants of that frontier to afford them protection against the inroads of the savages; and being fully satisfied by letters from respectable citizens from that quarter, that the murders and depredations committed were by Indians from the above-named towns, I took upon myself the responsibility of ordering a detachment into service for the special purpose of destroying them, having been convinced, by experience, that small detachments, stationed on the frontiers, were not sufficient to insure protection to the inhabitants, as the Indians, acquainted with their situation, watched favorable opportunities for coming in on some unguarded point, committing murders, and returning with impunity. On the 24th of

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November last, I received a requisition from the War Department, requesting me to cause to be detailed, from Major General Floyd's division, five hundred men, for the special purpose of assisting in the reduction of Amelia Island. Orders for this purpose were immediately given to Major General Floyd, who, viewing it, as I did, a case of emergency, drew the whole of the requisition from the first brigade of his division, under the impression that their services would be required on that occasion only. Before the organization of the troops could be completed, Amelia Island fell into the hands of the regular force sent against it. General Floyd, notwithstanding, completed the organization, and, without consulting me at all, they were ordered to the frontier at different points. Some were ordered to Hartford to join the two regiments, which were then organizing to go against the Indians, agreeably to a request of General Gaines. Among these was Captain Wright's company from Savannah. At the time they marched, however, the captain, from ill-health, was unable to accompany them, but shortly after followed on to Hartford, and assumed the command of a small detachment left there, although it since appears he had never been mustered into the service of the United States. Captain Wright having tendered his services to lead the expedition, and, from circumstances above mentioned, believing I had the right to command him, they were accepted. I accordingly ordered two companies of cavalry from two adjacent counties, and two companies of infantry, which I had previously ordered to different posts on the frontier, to rendezvous at Hartford, and report themselves to Capt. Wright, and also directed Captain Wright to call on Captain Bothwell, then in the service of the United States, stationed at Fort Early, for assistance, should it be necessary. The only reason I have to offer for calling on the troops in the service of the United States is, the danger to which the frontier was exposed, and the necessity for putting a stop to the incursions of the savages, which could only be done by the destruction of their towns, in order that the inhabitants might return to their homes, and prepare their farms for cultivation, the season for doing so having then commenced. The party, on their march learning that Hopaunee had left his own village, and had taken up his residence at the Chehaw town, took on themselves the responsibility of pursuing him there; and, having reached the town, commenced an attack on it; the result of which was, that several of the friendly Indians were killed. As the detachment was ordered into service by the State's authority, and as they had violated their orders by destroying a friendly town, I had ordered an investigation of the conduct of the commanding officer before a military tribunal; but I have since determined to stay all further proceedings until the pleasure of the President of the United States should be known on the subject. Captain Wright was arrested by order of General Jackson, but was released by the civil authority. I have since had him arrested, and

shall keep him confined to await the President's decision. I have the honor to transmit a copy of General Jackson's letter to me, demanding forthwith the delivery of Captain Wright to the officers sent by him to arrest and confine him. It is a production as inflammatory and indecorous, as it is unbecoming a gentleman and a soldier. Enclosed you will also receive a copy of my letter to the General in reply.

Should it meet the approbation of the President, I would prefer that the case of Captain Wright be referred to the circuit court of the United States, which will be held in Savannah, in December next.

With great respect, I am, &c.

WM. RABUN.

Hon. J. C. CALHOUN,  
*Secretary of War, Washington.*

EXECUTIVE DEPARTMENT, GEORGIA,  
*Milledgeville, March, 21, 1818.*

SIR: Your have no doubt been apprized that, since your departure from Hartford with the Georgia militia, the Indians have been hovering on the frontier of Telfair county; that they have killed a Mr. Bush, and wounded his son, and, being pursued by the citizens of that country, have met in hostile array, when an engagement took place, which lasted near an hour, in which our little detachment, consisting of only thirty-four men, lost seven killed and a number badly wounded. This rencounter has excited considerable alarm on that frontier, and the inhabitants are, in many instances, flying from their homes, for the want of protection.

The object of this communication is to request that you will be so good as to station some troops near the Big Bend of the Ockmulgee, and at or near the most assailable points below that place. If it is not convenient for you to furnish the necessary force, you will please give directions for supplying such detachments as may, in that event, be ordered into the service, under the authority of the State, with rations, &c. I hope you will write me on this subject without delay, as great alarm has been produced by the hostile attitude which the enemy has assumed.

I have the honor to be, respectfully, your obedient servant,

WM. RABUN.

Maj. Gen. ANDREW JACKSON,  
*U. S. Army, Creek nation.*

EXECUTIVE DEPARTMENT, GEORGIA,  
*Milledgeville, June 1, 1818.*

SIR: I have lately had the honor to receive yours of the 7th ultimo, founded on a communication from General Glasscock, relative to an attack recently made on the Chehaw village. Had you, sir, or General Glasscock, been in possession of the facts which produced the affair, it is to be presumed, at least, that you would not have indulged in a strain so indecorous and unbecoming. I had, on the 21st of March last, stated the situa-

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tion of our bleeding frontier to you, and requested you, in respectful terms, to detach a part of your overwhelming force for our "protection, or that you would furnish supplies, and I would order out more troops; to which you have never yet deigned to reply. You state, in a very haughty tone, that "I, as Governor of a State, within your military division, have no right to give a military order whilst you are in the field." Wretched and contemptible, indeed, must be our situation, if that be the fact. When the liberties of the people of Georgia shall have been prostrated at the feet of military despotism, then, and not till then, will this imperious doctrine be tamely submitted to. You may rest assured, that, if the savages continue their depredations on our unprotected frontier, I shall think and act for myself in that respect.

You demand that Captain Wright be delivered in irons to your agent, Major Davis. If you, sir, are unacquainted with the fact, I beg leave to inform you, that Captain Wright was not under your command, for he had been appointed an officer in the Chatham county militia, which had been draughted for the special purpose of assisting General Gaines in reducing Amelia Island. That object having been accomplished before our militia had taken the field, General Gaines, as soon as their organization was completed, assumed the right to order them to the frontier, without ever consulting the State authority on the subject. Captain Wright, at that time being in a state of debility, failed to march, and of course was not mustered into the service of the United States. He, however, followed on to Hartford, where, finding himself not likely to be received into the service of the United States, tendered his services to command the contemplated expedition, which were accordingly accepted. Having violated his orders by destroying the Chehaw village, instead of Hopaunees and Philemmees towns, against which the expedition was directed, I had, previous to receiving your demand, ordered him to be arrested; but before he was apprehended agreeably to my orders, he was taken by your agent, and afterwards liberated by the civil authority. I have since had him arrested and confined, and shall communicate the whole transaction to the President of the United States, together with a copy of your letters.

I have the honor to be, &c.

WM. RABUN.

Maj. Gen. ANDREW JACKSON.

FORT HAWKINS, GEORGIA,  
May 17, 1818.

SIR: I was ordered on the 6th instant from Fort Gadsden to Georgia; on the 8th instant, I was overtaken by an express from Major General A. Jackson, with the enclosed communications; I proceeded without delay to Hartford; Captain Wright was gone before I arrived. I now hasten to Milledgeville to deliver General Jackson's letter to the Governor of Georgia.

Captain Wright, I understand, has gone to Sa-

vannah, where I intend to pursue him; if he is taken, I will notify you immediately.

I have the honor to be, &c..

JOHN M. DAVIS,  
*Assistant Inspector General.*

Hon. J. C. CALHOUN,  
*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
May 7, 1818.

SIR: You will send, or deliver personally, as you may deem most advisable, the enclosed talk to Kanard, with instructions to explain the substance to the Chehaw warriors.

You will proceed thence to Hartford, in Georgia, and use your endeavors to arrest, and deliver over in irons to the military authority at Fort Hawkins, Captain Wright, of the Georgia militia, who has been guilty of the outrage against the women and superannuated men of the Chehaw village. Should Wright have left Hartford, you will call upon the Governor of Georgia to aid you in his arrest.

To enable you to execute the above, you are authorized to take in company with you the Tennesseans that went from hence lately for Fort Scott, and await, if you think it necessary, the arrival of the Georgians, now on march under Major Porter.

You will direct the officer commanding at Fort Hawkins to keep Captain Wright in close confinement until the will of the President be known.

The accompanying letters of the Secretary of War and the Governor of Georgia you will take charge of until you reach a post office.

ANDREW JACKSON,  
*Major General commanding.*

Major DAVIS.

SIR: Send, with the accompanying letter, to the Secretary of War, a copy of the talk to the Chehaw nation, the order to you, and the letter to the Governor of Georgia: they are left open for this purpose.

The copies of Glascock's letters will accompany that to the Secretary of War and the letter to the Governor of Georgia. Yours, &c.,

J. GADSDEN, *Aid-de-camp.*

HEADQ'RS, DIVISION OF THE SOUTH,  
May 7, 1818.

[7 miles from Fort Gadsden, 12 o'clock.]

SIR: I halt my army to enclose you a communication which has this moment been received by express from General Glascock. The outrage which has been committed upon the superannuated warriors, women, and children, whose sons were then in the field in the service of the United States, merits the severest chastisement. The interference, too, of the Governor of Georgia with the duties imposed on me, claims the earliest attention of the President.

All the effects of my campaign may, by this



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one act, be destroyed, and the same scenes of massacre and murder, with which our frontier settlers have been visited, again repeated.

On my march from Hartford to Fort Scott, the necessities of my army were first relieved at the Chehaw village, and every act of friendship characterized the conduct of their old chiefs. The young warriors immediately entered, and were mustered into the service of the United States; and, under the command of Colonel Kanard, were esteemed one of the most efficient corps of friendly Indians. What must be their feelings, on returning to the vicinity of their homes, after the privations, fatigues, and dangers of a long march, in the service of the United States, to find their houses consumed, their families dispersed, and their old warriors and chiefs butcherously and inhumanly murdered, you must well know how to estimate.

I have written to Hartford to have Captain Wright arrested and ironed, until the will of the President of the United States is known; and I have requested of the Governor of Georgia to aid in the execution of this order, should Wright have left that place.

I shall send a talk to the Chehaws, explaining, as satisfactorily as possible, this most iniquitous proceeding.

Copies of the above are enclosed.

Yours, respectfully,

ANDREW JACKSON.

Hon. J. C. CALHOUN,

*Secretary of War.*

FORT EARLY, April 30, 1818.

SIR: I have the pleasure to inform you that my command has safely reached this place, having suffered some little for the want of meat. The gods have proved equally propitious to us, on our return as on our advance at Mickasuky. Some of my men were nearly out of corn, and, searching about some old houses that had not been consumed, to see if they could make any discovery, in entering one of them, to their great astonishment and surprise, they came across the man who was lost from Captain Watkin's company, on the 2d of April. It appears, from his statement, that he was taken with a kind of cramp, and was unable to move and became senseless. When he recovered, he became completely bewildered, and never could reach the camp; he therefore concluded it was prudent to secrete himself in some swamp, and, after wandering about some time, came across a parcel of corn, on which he subsisted until we found him; he was very much reduced, and apparently perfectly wild. On that night Gray struck a trail, pursued it about a mile and a half, came to a small hut, which fortunately contained fifty or sixty bushels of corn, some potatoes and peas, which enabled us to reach the Flint, opposite Chehaw village; when, arriving within thirty miles of the place, I sent on Major Robinson, with a detachment of twenty men, to procure beef. On his arriving there, the Indians had fled in every direction;

the Chehaw town having been consumed about four days before, by a party of men consisting of two hundred and thirty, under a Captain Wright, now in command of Hartford.

It appears that, after he assumed the command of that place, he obtained the certificates of several men on the frontier, that the Chehaw Indians were engaged in a skirmish on the Big Bend. He immediately sent or went to the Governor, and received orders to destroy the towns of Phillemee and Opaunee. Two companies of cavalry were immediately ordered out and placed under his command, and on the 22d he reached this place. He ordered Captain Bothwell to furnish him with twenty-five or thirty men to accompany him, having been authorized to do so by the Governor. The order was complied with. Captain Bothwell told him that he could not accompany him, disapproved the plan, and informed Captain Wright that there could be no doubt of the friendship of the Indians in that quarter; and stated that Opaunee had brought in a public horse that had been lost that day. This availed nothing; mock patriotism burned in their breasts; they crossed the river that night, and pushed for the town. When arrived there, an Indian was discovered grazing some cattle; he was made a prisoner. I am informed by Sergeant Jones, that the Indian immediately proposed to go with the interpreter, and bring any of the chiefs for the captain to talk with. It was not attended to. An advance was ordered, the cavalry rushed forward and commenced the massacre. Even after the firing and murder commenced, Major Howard, an old chief, who furnished you with corn, came out of his house with a white flag in front of the line. It was not respected. An order was given for a general fire, and nearly four hundred guns were discharged at him before one took effect. He fell, and was bayoneted; his son was also killed. These are the circumstances relative to the transaction. Seven men were killed, one woman, and two children. Since then three of my command, who were left at Fort Scott, obtained a furlough, and on their way one of them was shot, in endeavoring to obtain a canoe to cross the Flint. I have sent on an express to the officer commanding Fort Scott, apprizing him of the affair, and one to Adjutant Porter, to put him on his guard. On arriving opposite Chehaw, I sent a runner to get some of them in, and succeeded in doing so. They are at a loss to know the cause of the displeasure of the white people. Wolf has gone to the agent to have it inquired into. We obtained from them a sufficient quantity of beef to last us to Hartford, at which place I am informed there is a plentiful supply of provisions.

I have the honor to be, &c.,

THOMAS GLASSCOCK,

*Brig. Gen. com'g Ga. militia, U. S. S.*

Major General ANDREW JACKSON.

ON MY MARCH WEST OF APPALACHICOLA,

May 7, 1818.

FRIENDS AND BROTHERS: I have this moment received, by express, the intelligence of the un-

*Arrest of Captain Obed Wright.*

warantable attack of a party of Georgians on the Chehaw village, burning it, and killing six men and one woman.

Friends and Brothers: The above news fills my heart with regret, and my eyes with tears: when I passed through your village, you treated me with friendship, and furnished my army with all the supplies you could spare; and your old chiefs sent their young warriors with me to fight, and put down our common enemy. I promised you protection; I promised you the protection and fostering friendship of the United States, so long as you continued to hold your father, the President of the United States, by the hand of friendship.

Friends and Brothers: I did not suppose there was any American so base as not to respect a flag, but I find I am mistaken. I find that Captain Wright of Georgia has not done it. I cannot bring your old men and women to life, but I have written to your father, the President of the United States, the whole circumstance of your case, and I have ordered Captain Wright to be arrested and put in irons, until your father, the President of the United States, makes known his will on this distressing subject.

Friends and Brothers: Return to your village; there you shall be protected, and Capt. Wright will be tried and punished for this daring outrage of the treaty and murder of your people; and you shall also be paid for your houses and other property that have been destroyed; but you must not attempt to take satisfaction yourselves; this is contrary to the treaty, and you may rely on my friendship, and that of your father, the President of the United States.

I send you my friend, Major Davis, who is accompanied by a few of my people, and who is charged with the arrest and confinement of Captain Wright: treat them friendly; they are your friends; you must not permit your people to kill any of the whites; they will bring down on you destruction. Justice shall be done you; you must remain in peace and friendship with the United States. The excuse that Captain Wright has made for this attack on your village is, that some of your people were concerned in some murders on the frontiers of Georgia; this will not excuse him. I have ordered Captain Wright, and all the officers concerned in this transaction, in confinement, if found at Hartford. If you send some of your people with Major Davis, you will see them put in irons. Let me hear from you at Fort Montgomery. I am your friend and brother.

ANDREW JACKSON,  
*Major Gen. commanding.*

ON MARCH TOWARDS PENSACOLA,  
7 miles advanced of Fort Gadsden,  
May 7, 1818.

SIR: I have this moment received, by express, the letter of General Glasscock, a copy of which is enclosed, detailing the base, cowardly, and inhuman attack on the old women and men of the Chehaw village, whilst the warriors of that vil-

lage were with me fighting the battles of our country against the common enemy, and at a time, too, when undoubted testimony had been obtained, and was in my possession, and also in possession of General Glasscock, of their innocence of the charge of killing Leigh and the other Georgian at Cedar creek.

That a Governor of a State should assume the right to make war against an Indian tribe, in perfect peace with, and under the protection of, the United States, is assuming a responsibility that I trust you will be able to excuse to the Government of the United States, to which you will have to answer; and through which I had so recently passed, promising the aged that remained at home my protection, and taking the warriors with me on the campaign, is as unwarrantable as strange. But it is still more strange that there could exist within the United States a cowardly monster, in human shape, that could violate the sanctity of a flag when borne by any person, but more particularly when in the hands of a superannuated Indian chief, worn down with age. Such base cowardice and murderous conduct as this transaction affords, has not its parallel in history, and should meet with its merited punishment.

You, sir, as Governor of a State within my military division, have no right to give a military order whilst I am in the field; and this being an open and violent infringement of the treaty with the Creek Indians, Captain Wright must be prosecuted and punished for this outrageous murder; and I have ordered him to be arrested and confined in irons until the pleasure of the President is known upon the subject. If he has left Hartford before my order reaches, I call upon you, as Governor of Georgia, to aid in carrying into effect my order for his arrest and confinement, which I trust will be afforded, and Captain Wright brought to condign punishment for this unprecedented murder. It is strange that this hero had not followed the trail of the murderers of your citizens; it would have led him to the Mickasuky, where we found the bleeding scalps of your citizens; but there might have been more danger in this than attacking a village containing a few superannuated women and men, and a few young women without arms or protectors.

This act will, to the last ages, fix a stain upon the character of Georgia. I have the honor, &c.

ANDREW JACKSON,  
*Major General commanding.*

His Ex<sup>cy</sup> WM. RABUN,  
*Governor of Georgia.*

FORT HAWKINS, May 30, 1818.

SIR: In pursuance of my order from General Jackson, dated May 7, 1818, (which has heretofore been enclosed to you,) I came up with Captain Obed Wright, of the Georgia militia, in Dublin, on the 24th instant. I arrested him, and brought him on as far towards Fort Hawkins as Milledgeville, where the civil authority interfered and discharged him.

*Arrest of Captain Obed Wright.*

A copy of the proceedings is herewith enclosed, together with a copy of my letter to the Governor of Georgia, and Wright's arrest.

I have notified Major General Jackson of the circumstances. I have the honor to be, &c.

JOHN M. DAVIS,

*Assistant Inspector General.*

Hon. J. C. CALHOUN, *Sec'y of War.*

CHAMBERS, May 28, 1818.

Present: Their honors Robert Wynn, William Bevin, and James Fleming, *Justices.*

The court met for the purpose of hearing Obed Wright, who was brought up before them upon a writ of *habeas corpus*, which is as follows:

GEORGIA, *Baldwin county.*

To any Justice of the Inferior Court.

The petition of Obed Wright sheweth: That he is detained in confinement by Major Davis, an officer in the United States service, and he therefore prays the benefit of a *habeas corpus*, to inquire into the cause of his confinement and detention.

SEABORN JONES,

*Attorney for petitioner.*

GEORGIA, *Baldwin county:*

It appears, from the petition of Obed Wright, that he is now kept in custody by you, and he having prayed a writ of *habeas corpus*, you are, therefore hereby commanded, that you bring before me, at the court-house of the county, by the hour of 11 o'clock of the forenoon of the day, the body of the said Obed Wright, by whatever title he may be known to you, together with the cause of his commitment and detention, that he may be dealt with according to law. Fail not, and have you then and there this writ.

Given under my hand and seal, the 28th of May, 1818.

WILLIAM BEVIN, *J. I. C.*

*Habeas corpus*, by the Constitution of the United States, and of the State of Georgia.

To Major DAVIS,

*an officer in the United States service.*

MILLEDGEVILLE, May 28, 1818.

I have the said Obed Wright in court, together with the cause of his commitment and detention.

JOHN M. DAVIS,

*Ass't Inspector General U. S. A.*

Major John M. Davis, assistant inspector general of the United States' Army, in obedience to a writ of *habeas corpus*, this day served on him, having produced the body of said Obed Wright, mentioned in the *habeas corpus*, before the court, together with the cause of his commitment and detention:

And the court, on consideration, deeming that no sufficient cause is shown for his detention: on motion, ordered, that he be discharged forthwith.

ROBERT WYNN.

WILLIAM BEVIN.

JAMES FLEMING.

GEORGIA, *Baldwin county:*

I, Thomas H. Kenan, clerk of the Inferior Court for said county, do hereby certify, the preceding pages contain a true copy of the proceedings of the trial of Obed Wright, in consequence of his confinement and detention.

Given under my hand and seal, this 28th day of May, 1818. THOMAS H. KENAN.

*Clerk Inferior Court.*

MILLEDGEVILLE, May 29, 1818.

SIR: In pursuance of Major General Jackson's order to me of the 7th instant, a copy of which is herewith enclosed, I arrested Captain Obed Wright, of the Georgia militia, in Dublin, on the 24th instant, and brought him thus far, on my way to Fort Hawkins, when a writ of *habeas corpus* was served on me, by which Captain Wright has been released from confinement.

I do now hereby call on you to have Captain Wright delivered to me, that I may be able to keep him in confinement until the will of the President of the United States be known.

I have the honor to be, &c.

JOHN M. DAVIS,

*Ass't Inspector General U. S. A.*

His Excellency WM. RABUN,  
*Governor of Georgia.*

DUBLIN, GEORGIA, May 24, 1818.

SIR: I am directed by Major General Jackson, commanding the division of the South, to arrest you and conduct you to Fort Hawkins, where you are to remain until the pleasure of the President of the United States be known on your case.

You will, therefore, consider yourself in arrest, and proceed accordingly. I am, &c.

JOHN M. DAVIS,

*Ass't Inspector General U. S. A.*

Capt. OBED WRIGHT, *Georgia Militia.*

[The following Message was sent to the House of Representatives, January 4, 1819.]

*To the House of Representatives  
of the United States:*

In compliance with a resolution of the House of Representatives, of the 24th instant, requesting me to lay before it "copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June of the present year, communicated to the House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date of 7th May, 1818; also communicated to the House on the 12th instant," I transmit a report from the Secretary of War, with a copy of an extract of a letter from Major Vandeverter, chief clerk in the Department of War, in reply to General Jackson's letter of the 7th of May, 1818.

JAMES MONROE.

DECEMBER 31, 1818.

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DEPARTMENT OF WAR, Dec. 30, 1818.

The Secretary of War, to whom was referred the resolution of the House of Representatives, of the 24th instant, requesting the President of the United States to cause to be laid before this House (if, in his opinion, the same should not be inconsistent with the public interest) copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former dated on the first of June of the present year, communicated to this House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date of the 7th of May, 1818; also communicated to this House on the 12th instant," has the honor to transmit an extract of a letter written by Major Vandeventer, chief clerk in the Department of War, in reply to General Jackson's letter of the 7th of May, 1818, and to state that no letter was addressed by this Department to the Governor of Georgia, in answer to his letter of the 1st of June, 1818.

J. C. CALHOUN.

The PRESIDENT of the United States.

*Extract of a letter from Major C. Vandeventer, chief clerk, to Major General Andrew Jackson, dated*

DEPARTMENT OF WAR, June 2, 1818.

Your letters of the 7th of April, (one without date,) from Fort Gadsden, and of the 26th of April, are received.

The President of the United States and the Secretary of War are out of town. The former will return about the 15th instant; the latter not before the middle of next month. So soon as the President returns, your despatches, together with your order to Major Davis, commanding the arrest of Captain Wright, and a copy of your letter to the Governor of Georgia, in relation to the horrid and atrocious destruction of the Chehaw village, will be laid before him. In the meantime, I am advised to communicate the "opinion" that the trial of Captain Wright by court-martial is decidedly preferable to a civil prosecution in the Federal court.

## REPORT OF THE SURGEON GENERAL ON THE ARMY RATIONS.

SURGEON GENERAL'S OFFICE,  
November 16, 1818.

To the Secretary of War :

SIR: In compliance with your instructions, I have the honor to submit the following report :

In deciding upon the component parts of the ration to be furnished the army, it must be obvious that, so far as the health of the troops is concerned, those will of course be the best which afford the greatest quantity of good nutritious matter from a given quantity of food; but, as the soldier is in general his own cook, it is also

necessary that they be of such a nature as to enable him effectually to extract this nutriment in the easiest and most simple manner. The first will depend upon the habits of the soldier previous to enlistment, and the last upon the mode of cooking which the experience of the army has found most convenient and advantageous.

It is a well known fact that every animal, in order to enjoy health, strength, and vigor, must be supplied with food adapted to its habits, whether *natural* or *acquired*. The former cannot in most cases be essentially changed without serious consequences; the lion, for example, cannot subsist on hay, or the ox on game: while in others the digestive organs may, *by degrees*, become so accustomed to unnatural food, as to render it not only consistent with but necessary to health: thus the horse may be taught to live on meat. Hence it follows that a ration perfectly adapted to the wants of a Cossack, might be totally useless, and perhaps injurious, to an American; for man may in this respect be considered a genus, the several species of which are determined by the age, country, or tribe, to which he belongs: the Greenlander and the Hindoo, the ancient Spartan and the modern epicure, would find nearly as much difficulty in subsisting upon the same food as the wolf and the sheep.

Such being the effect of custom, it must be evident that whenever a man has confirmed his natural propensities by long habit, any change, especially a sudden one, will be attended with most injurious, if not fatal effects; and this is precisely the condition of the American soldier; for, if the natural diet of man is altogether vegetable, and if the people of the country differ but little in their mode of living from that pointed out by nature, and are also accustomed to a great variety, and consequently too frequent changes in the several articles of their diet, it must be obvious that a ration, composed of bread and meat only, and chiefly of the latter, cannot be consistent either with "comfort, convenience, or health."

That man was not originally carnivorous, is proved by history, both sacred and profane; and this is confirmed by the fact that nearly all those animals whose usefulness depends upon their health, strength, and vigor, or upon the nutritious quality of their solids, such as the horse, elephant, camel, mule, sheep, and most of those used for food, subsist upon vegetables; while the carnivorous species, as the tiger, wolf, dog, and even the lion, though they possess a greater degree of agility, from their natural conformation, have nothing of that real strength and vigor which renders the former animals important assistants to us during life, nor of that healthy embonpoint which makes some of them equally useful after death.

The same is true with respect to man in his present unnatural state. The natives of this country, who subsist principally on game; those tribes of Bedouins, whose deserts scarcely afford food for their cattle; and the Greenlander, whom necessity has taught to live upon dried fish and blubber, are all, from their general habits, hardy; but they are, *ceteris paribus*, inferior to the Hin-

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doo, whose fear of feeding upon his grandsire confines him to pulse and light vegetables; much less have they the stamina of those whom our second nature, habit, has accustomed to a judicious mixture of both these kinds of food.

Custom, it is true, renders a certain portion of animal food necessary to produce the highest state of health and vigor; but it is believed the quantity required for this purpose has been exceedingly overrated. This has arisen from observing that certain classes of men, noted for their health and strength, indulge largely in such kind of diet. But the conclusion by no means follows from the premises; for these same men will also indulge in large potations of ardent spirits, and various other excesses, without *apparent* injury; this therefore only proves what they can *bear*, and not what is *best* for them.

The correctness of the position will further appear from the diet found necessary for the delicate and the valetudinarian. There the great difficulty is to procure food sufficiently light, that is, of sufficient bulk to satisfy hunger, without too much nutriment to suppress digestion; for physiologists, when discoursing upon the digestive organs, and the quality of food best suited to them, have shown that the former requires from the latter what they have termed the stimulus of *distension*, as well as a due degree of excitement from nutritious matter, to excite healthy action. That a certain bulk is as necessary as a certain quantity of nutriment; and that so far as one of these is increased at the expense of the other, so far the diet varies from the healthy standard. Thus, it not only appears that a vegetable diet is natural to man, but we are taught its *modus operandi*; and that, although it actually contains much less nourishment than animal matter, yet, from its being in a state of subdivision, it is so *diluted*, as it were, as to be fully acted upon by the stomach; whereas, in a more concentrated form, it becomes an unnatural stimulus, and destroys the powers of the digestive organs.

Now we may conclude, *a priori*, that the diet of the people of this country will be that which is best suited to them; for such is the facility of obtaining the means of subsistence, that even the laborers in our cities, probably the poorest class of men among us, are enabled to procure most of the articles supplied in the markets; and such is the profusion with which we are blessed, that these consist of almost everything the palate can desire or the stomach digest. Being, therefore, under no restraint from poverty or scarcity, it is to be presumed they would follow, in a great measure, the indications of nature; and that this is a fact will appear from a cursory reflection upon the modes of living in the different parts of the country; for when we take into account the quantity of farinacea employed in bread, pudding, &c., the great variety and abundance of fruits, and of the lighter vegetables, in addition to the more nutritious ones, as peas, beans, rice, potatoes, and many roots, it is probable four-fifths of our diet is vegetable, and perhaps two-thirds in every case. Even at dinner, when meat is

most used, it is generally in this proportion, and it constitutes but a small part of our morning and evening meals. There are no doubt exceptions, but these proportions will be found in general correct.

The cheapness of living, however, not only enables the mass of our population to procure food of the best kind, but also to obtain a great variety of the essential articles, and many even of the luxuries of life; there are few who, to fish and poultry, and almost all the vegetables in use, do not add tea, coffee, sugar, spices, and other condiments; and with this variety of food they are accustomed to no small variety in the mode of preparing it. The very general use of tea, or some other warm infusion, at the morning and evening meals, is a point of no small importance, and nothing but experience can fully convince one how severely the want of it is felt, and of course how necessary that, or a substitute, is for the health of the soldier.

But, secondly, the experience of the army proves, that not only the habits of the soldier previous to enlistment, but also the mode of cooking found most effectual and convenient, requires a material change in the component parts of the ration; for, since the business of cooking belongs, in civil life, almost entirely to females, when a man is confined to bread and meat, he is not only suddenly deprived of his accustomed means, but is entirely ignorant of the best mode of employing those afforded him; and one of the last things a young officer or soldier learns, is how to manage his domestic concerns, though he soon becomes acquainted with the necessity of this knowledge, both for his health and his comfort.

When a recruit receives his ration, if the meat be fresh, he broils it to a cinder on the coals, on the end of his ramrod; if salt pork, he eats it raw; and if salt beef, he boils it, and, with his bread, will make a pretty good meal for some time; but in the morning and evening he feels the want of his usual infusion of tea, and at noon of his customary supply of vegetables. As a substitute for the former, he warms the stomach with a gill of undiluted, corroding whiskey; and, after living a few weeks in this way, is sent to the surgeon, worn down with dysentery, diarrhœa, and other complaints of the stomach and bowels. If the surgeon be sufficiently acquainted with his duty to give him a light diet of soup, fresh vegetables, and hospital stores, instead of loading him with medicine, he is shortly restored to health; and, from the same causes as before, is shortly returned to the hospital, and, after being for some months a burden to himself and the community, he is either buried or discharged service, and perhaps pensioned. This is a process which every one on duty, during the late war, has repeatedly witnessed; which occurred with the majority of those enlisted, and which rendered the muster rolls of the Army a mere list of invalids.

Whenever the mortality was great, during the late war, it was attributed to the *quality* of the ration; but the fact is, it was, on an average, as

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good at these places as usual; and, that this was the case, is proved from the circumstance that the regiments at these stations, commanded by experienced officers, as well as those in the vicinity, were often, in a great measure, exempted from disease.

There were two corps, one noted for their good police, and the other for their depredations on the fields and gardens of the citizens, who were a continual proof of the true cause of this difference in the health of the men; for experience soon taught both officers and men the importance of preparing their food in the form of *soups*; and whenever this was done, either in consequence of police regulations, or from the soldiers obtaining a supply of the necessary ingredients, the good effects were constantly observed; and from what has been adverted to, relative to the diet natural to man, and the rationale of its operation, the reasons must be obvious.

It is true, the same judicious arrangements which not only obliged the men to cook their provisions in the best manner, but also provided them with the necessary ingredients, would conduce to their health in various ways; but when, as was the case in the corps above alluded to, change of position or circumstances produced the same result upon those who had no police at all, and the only apparent difference in their situation arose from their being able to obtain a variety of articles, in addition to their ration, and to prepare them in a suitable manner, there can be no doubt that the *nature*, and not the *quality*, of the ration, was the true cause of its effects. This is also confirmed by the practice found most beneficial in the hospitals, as most patients required only a proper diet to restore them to health, while animal food, in a solid form, was generally nauseated.

One of the divisions of the French Army, in 1810, was so far reduced by diarrhœa and dysentery, as to produce a full and satisfactory investigation of its causes; and it was clearly shown, in a memoir of the Surgeon General of the division, to arise entirely from the ration to which they had for some time been confined. Being unable to obtain the usual supply of vegetables, they were furnished, like our Army, with bread and meat only, and principally the latter, which was in general salted pork; so that the effects of such a diet are not peculiar to our own country.

In fact, if we compare our ration with that of the French and English, (the two nations probably best instructed in most military matters,) the defects of the former will be apparent.

They are as follows:

*French*.—Bread 24 1/2 oz., or biscuit 17 1/2 oz.; fresh meat or salt beef 8 oz., or salt pork 6 1/2 oz.; rice 1 oz.; dried pulse 2 oz.; wine 2 gills, (nearly); brandy 1/2 gill, (nearly.)

*English*.—Flour or bread 24 oz.; beef 16 oz., or pork 8 oz.; peas 1 gill; butter or cheese 1 oz.; rice 1 oz.

*American*.—Flour 18 oz.; beef 20 oz.; pork 12 oz.; whiskey 1 gill.

From this it appears the American has more

than twice as much meat as the French, and more even than the British soldier, while our ration of bread is about two-thirds of theirs, although we have no other vegetable. It should also be observed that the British issue no ardent spirits, and the French but a small portion, though their habits, in this respect, render such an allowance at least harmless.

Since then, the health, and of course the efficiency of an army depends so much upon the ration, this subject becomes one of no small political importance; and an "old soldier" of our country, in his "advice to young generals," has very pertinently commenced with "the belly;" as he considers a man's stomach, to have an essential effect both upon his ability and his inclination to fight, and, among other causes, of the almost universal success of the armies of barbarians, and especially of semi-civilized nations, their being subject to little or no change in their mode of living when in actual service, is a very prominent one; for they are not only less liable to be diminished by disease, but they add to the full enjoyment of all their physical powers, the no less important *moral effect* of high health and consequent good spirits; and the want of which, generally completes the destruction of a beaten and retreating army.

Among the ancients, the ration of a soldier was principally, if not entirely, vegetable; and it is well known what immense burdens they carried, what fatigues they underwent, and what surprising marches they often performed. This, however, probably depended, in a great measure, like the success of the armies above alluded to, upon the little change required in their mode of living when called from their homes to the field.

Whenever, therefore, the progress of civilization, or the natural fertility of a country, enables the mass of the population to habituate themselves to a degree of luxury in living, it becomes necessary in time of war to put in requisition the wealth and means these very circumstances produce in time of peace, to counteract the evil. If an army of barbarians required less in the field, they had also fewer resources; and since experience has shown the impossibility of accommodating our habits to our supplies, it becomes necessary to adapt our supplies to our habits. The truth of these remarks will appear from considering that, in the progress of almost every nation from barbarism to civilization, the point at which their armies have been most formidable and efficient, is that where they unite the hardihood of the former to the resources of the latter; where they have the use of wealth and science, without having learned to abuse them. This may be exemplified in the history of the Russian empire, since the time of Peter the Great.

Although not *immediately* connected with this subject, it may be well to observe, that what has been advanced in relation to the ration, is applicable, in the fullest extent, to the medical attendance and supplies of our Army. The soldier who, previous to enlistment, had no physician but nature, no nurse, but what chance or charity

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furnished, and who never knew what comfort and convenience were, will easily struggle through a disease that would be inevitably fatal to one who had been from his infancy accustomed to every assistance that professional skill and the solicitude of friends, aided by a competency at least, can afford.

But, from the multiplicity of charitable institutions among us, even our paupers are better attended and furnished when sick, than the soldier can possibly be, without liberal supplies from the public, assisted by an effectual organization of the medical staff, a rigid observance of regulations, and a strict attention to duty. Policy and economy, therefore, no less than humanity, require attention to this subject, since, in addition to the loss of much time, it costs the public several hundred dollars to supply the place of a good soldier, who might often have been saved for the twentieth part of the sum.

*Sutling*, also, is a subject that deserves to be particularly noticed, since it is of nearly as much importance to the health, comfort, and convenience of the Army, as the nature of the component parts of the ration; to the officers it is more so; for both in time of peace and in active service they are generally stationed so far from cities and villages as to render them altogether dependent upon the occasional supplies of the irregular followers of a camp; and too often money cannot procure a decent meal. From the experience of the late war, there can be no doubt but this circumstance alone rendered the service on the frontier more unpleasant and unpopular, and caused more desertion, if it may be so termed, than all others together. In fact, it often amounted to absolute want, for, after living a few weeks upon a soldier's ration, diarrhœa and dysentery would render bread and meat as useless as stocks and stones. And even when the camp was surrounded with hucksters, they extorted, in a short time, all the money an officer possessed for supplying him with a bare subsistence, so that it too often happened that those, particularly in the subordinate grades, were, from absolute poverty, obliged to descend to habits and practices totally inconsistent with the character of officers or gentlemen. It would frequently require nearly all the pay and emoluments of a captain to discharge his mess bill; the situation of subalterns, therefore, may well be imagined, since the scarcity of supplies rendered it impossible to adapt one's living to his means.

Feeling the importance of this subject, commanding officers repeatedly attempted to obtain and secure regular sutlers, who, from having the exclusive right to sell to their corps, might be able and willing to furnish them regularly at a low rate. But this was found impracticable; in the first place, from the irregularity with which the Army was paid; and secondly from the small security the sutler had for his money. The former was, of course, the chief cause of the latter.

I have known an honest and faithful man lose from eight hundred to one thousand dollars, by

the death, desertion, and discharge of soldiers, who had not been paid for many months, and some of them for two years. The consequence was obvious; the sutler was soon obliged to quit his business, and, in the mean time, to charge an enormous profit, to make up for these losses, in addition to those arising from the necessity of borrowing money or purchasing at a long credit, and of course at a great advance.

In actual service, perhaps, the troops cannot always be regularly paid: some mode should therefore be adopted to secure the sutler his just and authorized demands, in all cases, which I apprehend might be easily effected. If this were done, he could furnish a mess of ten men with all the groceries, &c., they require for ten dollars per month; whereas they now spend one-half their pay for occasional supplies of the worst kind; and, at the same time, a mess of officers might live better for three dollars per week than they often do for four or five times that sum.

In the British army this subject has received the attention it deserves; so that one of their regiments is generally better supplied, and at a cheaper rate than any of the neighboring citizens, and it surely is of equal importance to us, if without costing the public a cent, we can, by suitable laws and regulations, enable both officers and men to purchase health and comfort for half the money they now pay for imposition and disease. Before quitting this point, it should be observed, that no important arrangement for the Army can be considered in the abstract, there is such a mutual dependence of all military regulations that it is often impossible to foresee the consequences of bad ones.

From the want of proper and regular supplies, for example, the important subject of *messing* has been almost entirely neglected. An officer, instead of finding his regimental mess a comfortable home, in which he feels an interest, and to which he is pleased to return, submits with reluctance to a few months of privation and hardship, and then commences his operations to effect a retreat to the interior, and leaves his place to be temporarily supplied by another equally discontented sojourner; and it is a fact, no less important than true, that those commanding officers who have made the greatest progress in regimental police have the least trouble in calling home their wandering officers, and keeping them there. It is in vain to say, as is often the case, that a soldier must expect these things, for, like all others, he will, to a certain extent, consult his own convenience. The camp at French Mills, in the Fall of 1813, was sufficient proof that the comforts of officers are of no small importance to the public; for, as soon as they found themselves in the wilderness, without food or houses, they not only quitted their posts upon the most trifling pretences; but many who would have faced the enemy with pleasure fled from privation in a manner that came little short of desertion. After what has been observed upon the nature of the ration, the necessity for a regimental grocery, for the health as well as comfort

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both of officers and men, will not probably require further proof.

With regard to the articles best suited to compose the ration, it is necessary that they be not only adapted to the habits of the soldier, but also of such a nature as to be easily procured, of a good quality, and capable of being preserved from injury in the several parts of the country where they are to be used. Wheat flour is easily damaged in all places, and in that state is extremely prejudicial to health. Most of the diseases of the troops during the late war were, by general consent, attributed to the ration; but, though by no means true to the extent believed, it was too often so, and, nine times in ten, damaged flour was the noxious article. At French Mills particularly, where the mortality was almost incredible, the flour was unfit for any human stomach. Where it can be obtained, therefore, kiln-dried corn-meal is far preferable to flour in every respect; but where it cannot, the evil may in a great measure be remedied by causing the latter to be baked in the form of hard biscuits, which can not only be preserved a much longer time, but are more palatable and less injurious when damaged, and far more nutritious when good than the soft bread furnished to or made by the soldiers.

This, it is believed, is a matter of no small importance, not only on account of the bad effects of damaged flour, but from the fact, well known to many valetudinarians and most physicians, that hard bread or soft bread toasted is much more easily digested, and affords more nutriment than in any other form, however good the quality may be; and, since a pound of this bread will be equal to a pound of flour, the baking will be but little, if any, additional expense.

For the same reason that kiln-dried corn-meal should, in many cases, be substituted for flour, bacon ought to be furnished instead of salt beef and pork; at the South, particularly, this change appears absolutely necessary for the health of the troops. With this alteration, and a proper reduction of the quantity of the meat, this part of the ration, provided a due proportion of it be fresh, would be as good as can possibly be required.

As to the additional vegetables that may be substituted for part of the meat, the kinds best adapted to this purpose, on every account, are those used by the British and French, viz: peas, beans, and rice; they may be obtained in abundance, and generally at a low rate; and, if issued either regularly or occasionally, would not only promote the health and comfort of the soldier, by approaching near to his accustomed food, but by enabling him to introduce frequent changes in his mode of preparing it.

The deleterious effects of ardent spirits, particularly in the army, are well known; for, in the reports of sick, "sudden death from intoxication," is no small item. It is suggested, therefore, whether this troublesome poison should not be altogether excluded, and the healthy drinks of molasses and water, or beer, substituted for it; if I

I am rightly informed, by supplying molasses and the essence of spruce, one quart of beer may be furnished for about the same sum as one gill of whiskey. The necessity of this will be more evident when it is remembered, that in fact the soldier has, at present, only water with his meals, for, notwithstanding all regulations, he will make a morning dram of his whiskey, which is one chief cause of its injurious effects.

At the request of a surgeon attending a post, where the men were severely attacked with dysentery this last Summer, the commanding officer stopped the whiskey altogether, and an immediate check was given to the disease. This, however, is but one of many instances of the good consequences resulting from such orders, and particularly at the South, during the Summer months.

Almost all classes of men among us are accustomed to the free use of spices and other condiments, particularly of pickles; which, on account of the vegetable acid they contain, are both a pleasant and healthy stimulus to the stomach. Indeed, vinegar is of great use on many accounts; it is one of the best correctors of the superabundance of bile, induced by an unnatural or long continued stimulus; whether it be the excessive heat of a warm climate, an abundance of animal food, or that of a crude consistence, or a too free use of ardent spirits; in the latter case, as well as where laudanum, or other narcotics, have been taken, it seems to act as a specific. Whenever, therefore, the soldiers are supplied with the lighter vegetables, as cabbages, beets, cucumbers, &c., which may, by suitable arrangements, easily be done, especially on the peace establishment, there can be no doubt of the benefit of allowing a sufficient quantity of vinegar, to furnish them with a regular supply of pickles; and even without these it might be used with great advantage, and would generally be very acceptable in its simple form.

If, from these considerations, it should appear that the health of the army requires alterations in the ration, they will be of still greater weight when we remember that, from the nature of our public institutions, the greater part of our force in actual service does, and will for many years, consist of militia—of men who must, necessarily, in all cases, be suddenly taken from their customary habits and comforts, and exposed to all the hardships and privations of the soldier, without any of his advantages. The effects of this have been too lately and too severely felt, to be soon forgotten; and it is suggested, whether this circumstance be not of sufficient importance to have a very considerable influence in deciding not only the nature of the ration, but of all those supplies upon which militia, when on duty, are equally as dependent as the regular soldiers; and as every able-bodied citizen is liable, at a moment's warning, to feel the necessity of having these supplies as good as practicable, he will have less objection to furnish his portion of any additional expense that may be necessary to insure their provision. All which is submitted.

J. LOVELL, *Surgeon Gen.*



*The Militia of the United States.*

## THE MILITIA.

[Communicated to the House, January 22, 1819.]

Mr. HARRISON, from the committee upon the improvement in the organization and discipline of the militia, made the following report:

That, having had the subject under their consideration, and finding that a bill containing a system of organization and discipline, reported at the last session, was before the House, they have nothing further to offer on the particular points contained in the bill. But as it is their opinion that, if the bill should be adopted, it will be advancing but a single step towards the attainment of the important object of rendering the militia, in all cases, a substitute for a standing army, they have directed their attention towards some ulterior measure by which it might be effected. They have been enabled to devise none better than that which is contained in the report made to this House on the 17th January, 1817; and they beg that the following extract therefrom may form a part of their report:

"The great difficulty to be encountered is the application of a system of discipline or military instruction to a great population scattered over an immense territory.

"The accomplishment of this object, at once, is evidently not within the power of the Government. To instruct the present militia of the country, to any useful extent, would require a larger portion of their time than they can possibly spare from the duty of providing for their families, unless they are liberally paid: to pay them would absorb all the resources of the nation. The alternative appears to be to direct the efforts of the Government to instruct such a portion of the militia as their means will allow, and which would produce the most beneficial result upon the whole mass; leaving to the effects of another system the gradual instruction of those military acquirements which, in a republican Government, it is so essential for every citizen to possess. Acting upon this principle, and believing that the instruction which it is in the power of the Government to give would be more usefully bestowed upon the whole of the officers and sergeants of the militia, than upon any particular class, the sections of the bill which relate to this part of the subject have been adopted by the committee. They have also considered it to be proper to annex some estimates of the annual expense of the system they recommend.

"Although it may be considered that, by presenting a bill for the organization and classification of the militia, and the exposition of their motives which accompany it, the committee have performed the task assigned them by the resolution under which they acted, they have, nevertheless, believed it to be their duty to submit some further views, the result of their deliberations upon this important subject.

"This course may be more excusable, as the committee have no hesitation in acknowledging that the plan embraced by the bill is a mere ex-

pedient—a choice of difficulties—a system which, although it will place the militia upon a much better footing they have before stood on, yet is not likely to produce that great desideratum—that indispensable requisite in a Government constituted like ours—the diffusion of a military spirit and military information throughout the great mass of the people.

"The part of the subject which still remains to be discussed will be best understood by dividing it into two distinct propositions:

"1st. Is it desirable that the whole male population of the United States, of the proper age should be trained to the use of arms, so as to supersede, under any circumstances, the necessity of a standing army?

"2d. Is it practicable?

"The solicitude which has been manifested by the great men who have successively filled the office of Chief Magistrate of the United States, for the adoption of a system of military discipline for the militia, which would produce the effect contemplated by the first proposition, sufficiently manifests their sense of its importance. The subject was often and warmly recommended by the Father of his Country, and, at an early period of his Administration, a plan for the purpose was proposed by the Secretary of War, and being corrected agreeably to his suggestions, was submitted to the National Legislature. It is believed that objections to the expense and supposed difficulty of executing this plan, and to its object, was the cause of its being rejected. Is the opinion which prevailed at that period, that an energetic national militia was to be regarded as the capital security of a free republic, less apparent at the present? Has anything since occurred, either in the history of our own or of any other country, to show that a standing "army, forming a distinct class in the community," is the proper defence of a Government constructed like ours? Do the events of the late war show that discipline is not necessary for the militia? or does the present aspect of the political world afford so much security as to justify the indifference which prevails in providing an effectual national defence?

"It is impossible that any American can recur to many of the events, and particularly to the concluding scenes of the late war, without feeling that elevation of mind which a recollection of his country's glory is calculated to produce. There are, however, others, and not a few, that are eminently calculated to show that an immense sacrifice of blood and treasure can be distinctly traced to the want of discipline in the militia. The glorious success which, in several instances, crowned their efforts, was the result of uncommon valor, or of valor united with the advantage of a position suited to their peculiar character. The greater part of the American militia, accustomed from their early youth to the use of fire-arms, are doubtless more formidable than any other troops in the world in the defence of a line or rampart. Victories in the field are gained by other qualities; by those disciplined evolutions which give harmony and concert to numerous bodies of men,

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and enable whole armies to move with the activity and address of single combatants. Let our militia be instructed, and America would be equal to a contest with the rest of the world united. The improvements which have been made in the art of war since the commencement of the French revolution give greater advantage to invading and disciplined armies, acting against those of a contrary character, than they before possessed. This arises from their increased activity, produced by the great multiplication of their light troops; the celerity of movement given to the artillery; and, above all, to the improvements in the staff, placing the subsistence of large armies upon a footing of security beyond what was formerly supposed to be possible. An improvement in tactics, which gives advantages to the professed soldier who fights for conquest over the citizen who bears arms only in the defence of his country, is perhaps to be regretted, and no alternative is left to the latter but to perfect himself in the same arts and discipline. It is believed that there is no instance on record of a republic whose citizens had been trained to the use of arms, having been conquered by a nation possessing a different form of government. Small republics have been overthrown by those who were more powerful, as Saguntum destroyed by Carthage, and Numantia by Rome: but it has been observed of those Governments, that 'their walls and towers became their funeral piles, leaving nothing to their conquerors but their ashes.'

"The committee cannot conceive that any aspect, however pacific it may be, which the Governments of Europe may for the present have assumed towards this country, should be used as an argument to procrastinate, even for a day, any measure calculated to render their future hostility abortive. It cannot be believed that any real friendship can exist in the breasts of the sovereigns of that continent for a Government which has been founded upon principles so opposite to theirs, and which, by the happiness it diffuses, affords an eternal satire and reproach upon their conduct. Whatever security, then, may be derived from their policy, none can certainly be expected from their forbearance, whenever, from a change of circumstances, they may think it proper to change their policy. The liberties of America must, then, be preserved as they were won—by the arms, the discipline, and the valor of her free-born sons.

"But the defence of our country against a foreign enemy does not constitute the only (perhaps not the chief) motive of military improvements to the extent contemplated by the proposition we are considering. The safety of a republic depends as much upon the equality in the use of arms amongst its citizens, as upon the equality of rights; nothing can be more dangerous in such a Government than to have a knowledge of the military art confined to a part of the people, for sooner or later that part will govern.

"The effects of discipline possessed by a few, to control numbers without, is to be seen in all the despotic governments of modern as well as ancient times.

"In general, however, the subjects of those despotic governments, which preserve their authority by standing armies, are not allowed the use of arms; but the use of arms is not alone sufficient. A striking example of this is to be found in one of the Grecian republics. The Spartans were enabled, by the force of discipline alone, to keep in subjection for ages the Helots, and other ancient inhabitants of Laconia. These men were not only allowed the use of arms, but upon almost every occasion formed the greater part of the Lacedemonian army; nor were they deficient in bravery, but they were not permitted to learn that admirable discipline which distinguished the Oplites, or heavy armed infantry of Sparta.

"Another important consideration, urging the diffusion of a military spirit amongst our citizens is, the counterpoise it will afford to that inordinate desire of wealth which seems to have pervaded the whole nation, bringing with it habits of luxury, manners, and principles, highly unfavorable to our republican institutions.

"The first effect of this state of society is the substitution of a standing army for a national militia. Upon this subject the committee beg leave to make a quotation from the report of General Knox, corrected by President WASHINGTON. 'It is,' says the patriotic Secretary, 'the introduction of vice and corruption of manners into the mass of the people, that renders a standing army necessary. It is when public spirit is despised, and avarice, indolence, and effeminacy of manners predominate, and prevent the establishment of institutions which would elevate the minds of youth in the paths of virtue and honor, that a standing army is formed and riveted forever.' So true is the principle here contended for, that it is believed there is no instance in history of a nation losing its liberties where the military spirit of the people did not decline in the same proportion that the corruption of manners advanced. Nor was any free government ever overturned by an internal convulsion, until the destruction of that spirit had been first produced in the body of the people. It was not until the amusements of the theatre, the baths, and the public gardens, had superseded the exercises of the Campus Martius, that a Roman army dared to revolt against its country, and with the power of the sword to substitute for its free institutions the arbitrary will of a dictator; eighty years before the successful usurpation of Cæsar, the revolt of an army could have produced no such consequence.

"But the habits of the people had been changed; no longer in every Roman citizen was to be found a trained and practised soldier; the higher tactics were cultivated, indeed, with zeal and success by a martial nobility. No period has been more prolific of great generals. At none had the discipline of the legions been so perfect; but they were no longer filled by citizens taking their routine of service. The military had become a distinct profession; composed of men, who, in the habits of war and pillage, had forgotten the sacred obliga-

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tions attached to their character as citizens, and who were ever as ready, upon the suggestion of their leader, to turn their arms against their country, as the enemy whom they were raised to oppose.

"As in every age, then, and in every country, the same cause will produce the same effects, the palladium of American liberty must be the diffusion of military discipline, and a military spirit through the whole body of the people.

"But, secondly; is the object attainable?

"That it is not attainable by any of the systems which have heretofore been in use in the United States, is very evident from the little success which have attended them. The late war repeatedly exhibited the melancholy fact of large corps of militia going to the battle field without understanding a single elementary principle, and without being able to perform a single evolution. Yet militia laws exist, and have existed, in all the States since the war of the Revolution, which set apart, with great precision, a number of days in each year for the purposes of training and discipline. But from this plan no good fruit has ever been produced. It was an error, indeed, common to all the militia systems in use in the United States, that the periods for training were too short and too distant from each other to produce much benefit.

"To remedy this defect camps of discipline have been recommended. One of the reasons which governed the committee in rejecting that part of the Secretary of War's recommendation has been explained above; but, if that objection should be overcome, the committee are far from thinking that the object could be at all accomplished in that way. There is another more formidable obstacle to success; more formidable, because it arises from the nature of our Government, and the constitution of the human character. The sentiments and habits of a free country necessarily produces amongst the citizens a superior restlessness under restraint, than is to be met with in the subjects of a monarchy. This spirit frequently manifests itself even in a career of military services, where the high interests involved, (and in which they largely partake,) and the evident necessity of discipline might be supposed able to correct it. There can scarcely be a restraint more vexatious and disgusting to a grown man than the initiatory lessons of the military art. Military discipline consists in the observance of a number of minute particulars which, to the novitiate in arms, have no apparent object, but which form the links of a beautiful and connected system. It is believed that to this cause is to be attributed the little progress which has been made in training the militia of the United States; nor is there much prospect that any change of system could, with regard to the present militia, produce the result at which we aim.

"In searching for landmarks to guide us to our object, it will be in vain that we direct our attention to the modern nations of Europe; from them we can borrow nothing to aid our purpose; governments formed upon artificial distinctions

in society, which estimate their security by the inability of their subjects to resist oppression, can furnish a free people with no guides in organizing a system of defence which shall be purely national. We are not, however, without resource.

"The ancient republics, from which we have drawn many of the choicest maxims upon which to found our civil institutions, will furnish also a most perfect model for our system of national defence. The whole secret of ancient military glory—the foundation of that wonderful combination of military skill and exalted valor which enabled the petty republic of Athens to resist the mighty torrent of Persian invasion, which formed the walls of Sparta, and conducted the Roman legions (influenced, indeed, by unhallowed motives) to the conquest of the world—will be found in the military education of their youth. The victories of Marathon and Platea, of Cyncephela and Pydna, were the practical results of the exercises of the Campus Martius and Gymnasia. It is on a foundation of this kind, and of this kind only, that an energetic national militia can be established.

"An examination into the employments and obligations of individuals comprising the society," says General Knox, "will evince the impossibility of diffusing an adequate knowledge of the art of war by any other means than a course of discipline during the period of non-age; the time necessary to acquire this important knowledge cannot be afforded at any other period of life with so little injury to the public or private interests." Nothing is more true than what is here advanced; and yet it is most singular that the amiable and patriotic Secretary should have founded his plan upon a course of instruction, to commence within the limits of non-age, indeed, but at so advanced a period of it, that all the objections which could be made to disciplining the militia at a more advanced age will apply to it, with the addition of others which are more cogent, and which are supposed to be inherent in the system itself. Of his advanced corps, composed of the youth of 18, 19, and 20 years of age, those of 18 and 19 are to be drawn out for thirty days in each year, and those of 20 for ten days, to be instructed in camps of discipline.

"It has been strongly urged against this plan, that the separation of the youth, at that critical age, from the superintending vigilance of their parents and guardians, would be a very dangerous step, and that the loss of time from the pursuit of their professions and occupations would prove to them a most serious evil.

"Whatever force there may be in these objections, the committee are fully persuaded that the improvement to be derived from the execution of this plan would not compensate for the expense and loss of time it would occasion. The perfection of discipline, as it regards the soldier, is the grace, the precision, and address, with which he performs certain evolutions. To arrive at this perfection, long continued practice is essential.

"And since it must be evident that the time necessary for this purpose cannot be taken from

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the avocations of our citizens, after they have arrived at the age of manhood, the only alternative is to devise a system of military instruction, which shall be engrafted on and form a part of the ordinary education of our youth.

"The organization of a system, thus extensive in its operations, must necessarily be a work of some time and difficulty. The want of statistical information will prevent the committee from submitting to the House, at this time, more than the outline of their plan. It is embraced in the following propositions:

"As the important advantages of the military part of the education of the youth will accrue to the community, and not to the individuals who require it, it is proper that the whole expense of the establishment should be borne by the public treasury.

"That to comport with the equality, which is the basis of our Constitution, the organization of the establishment should be such as to extend, without exception, to every individual of the proper age.

"That, to secure this, the contemplated military instruction should not be given in distinct schools, established for that purpose, but that it should form a branch of education in every school within the United States.

"That a corps of the military institutions should be formed to attend to the gymnastic and elementary part of education in every school in the United States, whilst the more scientific part of the art of war shall be communicated by professors of tactics, to be established in all the higher seminaries.

"The committee are fully aware that the establishment of an institution, which, from its nature, is calculated to produce an important change in the manners and habits of the nation, will be received with caution and distrust by a people jealous of their liberties, and who boast of a Government which executes its powers with the least possible sacrifice of individual right. An encroachment upon individual rights forms no part of their system. It is not a conscription which withdraws from an anxious parent a son, for whose morals he fears more than for his life. It is not a Persian or Turkish mandate to educate the youth within the purlieus of a corrupt court, but a system as purely republican in practice as in principle.

"The means are furnished by the Government, and the American youth are called upon to qualify themselves, under the immediate inspection of their parents, or of tutors chosen by their parents, for the sacred task of defending the liberties of their country.

"Although the system of General Knox widely differs from that which has been recommended by the committee, his opinion of the effects to be produced by it is conceived to be more particularly applicable to the latter. 'If the United States,' says he, 'possess the vigor of mind to establish the first institution, for the military instruction of the youth, it may reasonably be expected to produce the most unequivocal advan-

tages. A glorious national spirit will be introduced, with its extensive train of political consequences. The youth will imbibe a love of their country, reverence and obedience to its laws, courage and elevation of mind, openness and liberality of character, accompanied by a just spirit of honor. In addition to which, their bodies will acquire a robustness, greatly conducive to their personal happiness; while habit, with its silent but efficacious operations, will durably cement the system.'

"That the House may possess all the information necessary to act upon this important subject, the committee respectfully recommend the adoption of the following resolution:

"Resolved, That the Secretary of War be required to prepare and lay before this House, at the next session of Congress, a plan for the military instruction of all the youth of the United States, in the way which is best calculated for the purpose, with as little injury as possible to the ordinary course of education."

*Estimates of training the Officers and Sergeants of the Militia of the United States.*

These estimates are made on a supposed number of one hundred thousand men, divided equally, as nearly as may be, into twenty-five brigades.

1st. Estimate upon the supposition that the officers and sergeants receive full pay, without rations, or an allowance for rations and forage, except to the sergeants, for whom rations might be necessary.

Each brigade containing, according to estimate, four thousand men, will be composed of four regiments, or forty companies.

There would, then, be the following field and staff officers, who should attend the training:

1 Brigadier full pay, \$104 . . .	\$104 00
1 Brigade inspector, with the pay of major . . . . .	50 00
4 Colonels, at \$75 . . . . .	300 00
4 Lieutenant colonels, at \$60 . . . . .	240 00
4 Majors, at \$50 . . . . .	200 00
40 Captains, at \$40 . . . . .	1,600 00
40 Lieutenants, at \$30 . . . . .	1,200 00
40 Second lieutenants, at \$25 . . . . .	1,000 00
160 Sergeants, \$8 pay, and \$6 for rations . . . . .	2,240 00

Amount of expenses of one brigade \$6,934 00

The adjutant to be taken from the line.

Brigades, twenty-five.

Expense of training officers for one month, at full pay, of twenty-five brigades, or one hundred thousand men . . . . . \$173,850 00

And estimating the United States militia at a million, then the total expense of training the officers of the whole militia would be some hundred thousand dollars less than two millions.

The following estimate is made on the supposition of the officers receiving only half-pay; the estimate proceeds, however, upon a supposition

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that no officer is to receive less than thirty dollars per month; and the sergeants full pay and rations.

Second estimate for 100,000 men:

1 Brigadier, half pay . . .	\$52 00
1 Brigade inspector . . .	30 00
4 Colonels, half-pay . . .	150 00
4 Lieut. colonels, half-pay . . .	120 00
4 Majors, \$30 each . . .	120 00
120 Captain and lieuten'ts, at \$30 . . .	3,600 00
160 Sergeants, pay and rations . . .	2,240 00

For officers of one brigade . . . \$6,312 00

For twenty-five brigades . . . \$157,800 00

And for 1,000,000 . . . \$1,578,000 00

And thirty dollars per month, except sergeants, and leaving them on full pay and rations, then the amount would be varied, as will appear by the third estimate, viz:

134 officers in a brigade of 4,000, at \$30 . . .	\$4,020 00
160 sergeants on full pay and rations . . .	2,240 00

One brigade . . . 6,260 00

For 100,000, making twenty-five brigades . . . 156,500 00

And for 1,000,000 . . . 1,565,000 00

*Copy of General Knox's report on the arrangement and classification of the militia, made to the House of Representatives, on the 18th January, 1790.*

WAR OFFICE, January 18, 1790.

SIR: Having submitted to your consideration a plan for the arrangement of the militia of the United States, which I had presented to the late Congress, and you having approved the general principles thereof, with certain exceptions, I now respectfully lay the same before you, modified according to the alterations you were pleased to suggest.

It has been my anxious desire to devise a national system of defence, adequate to the probable exigencies of the United States, whether arising from internal or external causes; and, at the same time, to erect a standard of republican magnanimity, independent of and superior to the powerful influence of wealth.

The convulsive events generated by the inordinate pursuit of riches or ambition require that the Government should possess a strong corrective arm.

The idea is therefore submitted, whether an efficient military branch of government can be invented with safety to the great principles of liberty, unless the same shall be formed of the people themselves, and supported by their habits and manners. I have the honor to be, &c.,

H. KNOX, *Secretary of War.*

The PRESIDENT of the United States.

## THE INTRODUCTION.

That a well constituted republic is more favorable to the liberties of society, and that its principles give a higher elevation to the human mind than any other form of government, has generally been acknowledged by the unprejudiced and enlightened part of mankind.

But it is at the same time acknowledged that, unless a republic prepares itself, by proper arrangements, to meet those exigencies to which all States are in a degree liable, its peace and existence are more precarious than the forms of government in which the will of one directs the conduct of the whole for the defence of the nation.

A Government whose measures must be the result of multiplied deliberations is seldom in a situation to produce instantly those exertions which the occasion may demand; therefore, it ought to possess such energetic establishments as should enable it, by the vigor of its own citizens, to control events as they arise, instead of being convulsed or subverted by them.

It is the misfortune of modern ages that Governments have been formed by chance and events instead of system; that, without fixed principles, they are braced or relaxed, from time to time, according to the predominating power of the rulers or the ruled; the rulers possessing separate interests from the people, excepting in some of the high-toned monarchies, in which all opposition to the will of the prince seems annihilated.

Hence, we look round Europe in vain for an extensive Government, rising on the power inherent in the people, and performing its operations entirely for their benefit. But we find artificial force governing everywhere, and the people generally made subservient to the elevation and caprice of the few; almost every nation appearing to be busily employed in conducting some external war, grappling with internal commotion, and endeavoring to extricate itself from impending debts which threaten to overwhelm it with ruin. Princes and Ministers seem neither to have leisure nor inclination to bring forward institutions for diffusing general strength, knowledge, and happiness; but they seem to understand well the Machiavelian maxim of politics—divide and govern.

May the United States avoid the errors and crimes of other Governments, and possess the wisdom to embrace the present invaluable opportunity of establishing such institutions as shall invigorate, exalt, and perpetuate the great principles of freedom; an opportunity pregnant with the fate of millions, but rapidly borne on the wings of time, and may never again return.

The public mind, unbiassed by superstition or prejudice, seems happily prepared to receive the impressions of wisdom. The latent springs of human action, ascertained by the standard of experience, may be regulated and made subservient to the noble purpose of forming a dignified national character.

The causes by which nations have ascended and declined, through the various ages of the

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world, may be calmly and accurately determined ; and the United States may be placed in the singularly fortunate condition of commencing their career of empire, with the accumulated knowledge of all the known societies and Governments of the globe.

The strength of the Government, like the strength of any other vast and complicated machine, will depend on a due adjustment of its several parts. Its agriculture, its commerce, its laws, its finance, its system of defence, and its manners and habits, all require consideration, and the highest exercise of political wisdom.

It is the intention of the present attempt to suggest the most efficient system of defence which may be compatible with the interests of a free people ; a system which shall not only produce the expected effect, but which, in its operations, shall also produce those habits and manners which will impart strength and durability to the whole Government.

The modern practice of Europe, with respect to the employment of standing armies, has created such a mass of opinion in their favor, that even philosophers and the advocates for liberty have frequently confessed their use and necessity in certain cases.

But whoever seriously and candidly estimates the power of discipline and the tendency of military habits will be constrained to confess that, whatever may be the efficiency of a standing army in war, it cannot in peace be considered as friendly to the rights of human nature. The recent instance in France cannot, with propriety, be brought to overturn the general principle built upon the uniform experience of mankind. It may be found, on examining the causes that appear to have influenced the military of France, that, while the springs of power were wound up in the nation to the highest pitch, the discipline of the army was proportionably relaxed. But any argument on this head may be considered as unnecessary to the enlightened citizens of the United States.

A small corps of well disciplined and well informed artillerists and engineers, and a legion for the protection of the frontiers and the magazines and arsenals, are all the military establishment which may be required for the present use of the United States.

The privates of the corps to be enlisted for a certain period, and after the expiration of which to return to the mass of the citizens.

An energetic national militia is to be regarded as the capital security of a free republic ; and not a standing army, forming a distinct class in the community.

It is the introduction and diffusion of vice and corruption of manners into the mass of the people that render a standing army necessary. It is when public spirit is despised, and avarice, indolence, and effeminacy of manners, predominate, and prevent the establishment of institutions which would elevate the minds of the youths in the paths of virtue and honor, that a standing army is formed and riveted forever.

While the human character remains unchanged, and society and Governments of considerable extent are formed, a principle ever ready to execute the laws and defend the State must constantly exist. Without this vital principle the Government would be invaded or overturned, and trampled upon by the bold and ambitious. No community can be long held together, unless its arrangements are adequate to its probable exigencies.

If it should be decided to reject a standing army for the military branch of the Government of the United States, as possessing too fierce an aspect, and being hostile to the principles of liberty, it will follow that a well constituted militia ought to be established.

A consideration of the subject will show the impracticability of disciplining at once the mass of the people. All discussions on the subject of a powerful militia will result in one or other of the following principles :

1st. Either efficient institutions must be established for the military education of the youth, and that the knowledge acquired therein shall be diffused throughout the community by the means of rotation : or,

2dly. That the militia must be formed of substitutes, after the manner of the militia of Great Britain.

If the United States possess the vigor of mind to establish the first institution, it may reasonably be expected to produce the most unequivocal advantages. A glorious national spirit will be introduced, with its extensive train of political consequences. The youth will imbibe a love of their country ; reverence and obedience to its laws ; courage and elevation of mind ; openness and liberality of character, accompanied by a just spirit of honor ; in addition to which their bodies will acquire a robustness greatly conducive to their personal happiness, as well as the defence of their country ; while habit, with its silent but efficacious operations, will durably cement the system.

Habit, that powerful and universal law, incessantly acting on the human race, well deserves the attention of legislators. Formed at first in individuals, by separate and almost imperceptible impulses, until at length it acquires a force which controls with irresistible sway. The effects of salutary or pernicious habits operating on a whole nation are immense, and decide its rank and character in the world.

Hence, the science of legislation teaches to scrutinize every national institution, as it may introduce proper or improper habits, to adopt with religious zeal the former, and reject with horror the latter.

A republic, constructed on the principles herein stated, would be uninjured by events sufficient to overturn a Government supported solely by the uncertain power of a standing army.

The well-informed members of the community, actuated by the highest motives of self-love, would form the real defence of the country. Rebellions would be prevented, or suppressed

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with ease. Invasions of such a Government would be undertaken only by madmen, and the virtues and knowledge of the people would effectually oppose the introduction of tyranny.

But the second principle (a militia of substitutes) is pregnant, in a degree, with the mischiefs of a standing army, as it is highly probable the substitutes, from time to time, will be nearly the same men, and the most idle and worthless part of the community. Wealthy families, proud of distinctions, which riches may confer, will prevent their sons from serving in the militia of substitutes; the plan will degenerate into habitual contempt; a standing army will be introduced, and the liberties of the people subjected to all the contingencies of events.

The expense attending an energetic establishment of militia may be strongly urged as an objection to the institution. But it is to be remembered that this objection is levelled at both systems, whether by rotation or by substitutes; for, if the numbers are equal, the expense will also be equal. The estimate of the expense will show its unimportance when compared with the magnitude and beneficial effects of the institution.

But the people of the United States will cheerfully consent to the expenses of a measure calculated to serve as a perpetual barrier to their liberties; especially as they well know that the disbursements will be made among the members of the same community, and therefore cannot be injurious.

Every intelligent mind would rejoice in the establishment of an institution, under whose auspices the youth and vigor of the constitution would be renewed with each successive generation, and which would appear to secure the great principles of freedom and happiness against the injuries of time and events.

The following plan is formed on these general principles:

1st. That it is the indispensable duty of every nation to establish all necessary institutions for its own perfection and defence.

2dly. That it is a capital security to a free State for the great body of the people to possess a competent knowledge of the military art.

3dly. That this knowledge cannot be attained in the present state of society, but by establishing adequate institutions for the military education of youth; and that the knowledge acquired therein should be diffused throughout the community by the principles of rotation.

4thly. That every man of the proper age and ability of body is firmly bound by the social compact, to perform, personally, his proportion of military duty for the defence of the State.

5thly. That all men of the legal military age, should be armed, enrolled, and held responsible for different degrees of military service.

And 6thly. That, agreeably to the Constitution, the United States are to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appoint-

ment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

## THE PLAN.

The period of life on which military service shall be required of the citizens of the United States, to commence at eighteen, and terminate at the age of sixty years.

The men comprehended by this description, exclusive of such exceptions as the Legislatures of the respective States may think proper to make, and all actual mariners, shall be enrolled for different degrees of military duty, and divided into three distinct classes.

The first class shall comprehend the youth of eighteen, nineteen, and twenty years of age, to be denominated the advanced corps.

The second class shall include the men from twenty-one to forty-five years of age, to be denominated the main corps.

The third class shall comprehend, inclusively, the men from forty-six to sixty years of age, to be denominated the reserved corps.

All the militia of the United States shall assume the form of the legion, which shall be the permanent establishment thereof.

A legion shall consist of one hundred and fifty-three commissioned officers, and two thousand eight hundred and eighty non-commissioned officers and privates, formed in the following manner:

1. *The legionary staff.*—One legionary, or major general; two aids-de-camp of the rank of major, one of whom to be the legionary quartermaster; one inspector and deputy adjutant general, of the rank of lieutenant colonel; one chaplain.

2. *The brigade staff.*—One brigadier general; one brigade inspector, to serve as an aid-de-camp.

3. *The regimental staff.*—One lieutenant colonel commandant; two majors; one adjutant; one paymaster, or agent; one quartermaster.

4. *Two brigades of infantry.*—Each brigade of two regiments; each regiment of eight companies, forming two battalions; each company of a captain, lieutenant, ensign, six sergeants, one drum, one file, and sixty-four rank and file.

5. *Two companies of riflemen.*—Each company to have a captain, lieutenant, ensign, six sergeants, a bugle-horn, one drum, and sixty-four rank and file.

6. *A battalion of artillery.*—Consisting of four companies, each to have a captain, captain-lieutenant, one lieutenant, six sergeants, twelve artificers, and fifty-two rank and file.

7. *A squadron of cavalry.*—Consisting of two troops, each troop to have a captain, two lieutenants, a cornet, six sergeants, one farrier, one saddler, one trumpeter, and sixty-four dragoons.

In case the whole number of the advanced corps in any State should be insufficient to form a legion of this extent, yet the component parts must be preserved, and the reduction proportioned, as nearly as may be, to each part.

The companies of all the corps shall be divided

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into sections of twelve each. It is proposed by this division to establish one uniform vital principle, which, in peace and war, shall pervade the militia of the United States.

All requisitions for men to form an army, either for State or federal purposes, shall be furnished by the advanced and main corps, by means of the sections.

The Executive Government, or Commander-in-chief of the militia of each State, will assess the numbers required on the respective legions of these corps.

The legionary General will direct the proportions to be furnished by each part of his command. Should the demand be so great as to require one man from each section, then the operation hereby directed shall be performed by single sections. But if a less number should be required, they will be furnished by an association of sections or companies, according to the demand. In any case, it is probable that mutual convenience may dictate an agreement with an individual to perform the service required. If, however, no agreement can be made, one must be detached by an indiscriminate draught, and the others shall pay him a sum of money, equal to the average sum which shall be paid in the same legion for the voluntary performance of the service required.

In case any sections, or companies of a legion, after having furnished its own quota, should have more men willing to engage for the service required, other companies of the same legion shall have permission to engage them. The same rule to extend to the different legions in the State.

The legionary General must be responsible to the Commander-in-chief of the militia of the State, that the men furnished are according to the description, and that they are equipped in the manner, and marched to the rendezvous, conformably to the orders for that purpose.

The men who may be draughted shall not serve more than three years at one time.

The reserved corps, being destined for the domestic defence of the State, shall not be obliged to furnish men, excepting in cases of actual invasion or rebellion, and then the men required shall be furnished by means of the sections.

The actual commissioned officers of the respective corps shall not be included in the sections, nor in any of the operations thereof.

The respective States shall be divided into portions or districts, each of which to contain, as nearly as may be, some complete part of a legion.

Every citizen of the United States, who shall serve his country in the field, for the space of one year, either as an officer or soldier, shall, if under the age of twenty-one years, be exempted from the service required in the advanced corps. If he shall be above the age of twenty-one years, then every year he shall so serve in the field shall be estimated as equal to six years' service in the main or reserved corps, and shall accordingly exempt him from every service therein for

the said term of six years, except in cases of actual invasion of or rebellion within the State in which he resides. And it shall also be a permanent establishment, that six years' actual service in the field shall entirely free every citizen from any further demands of service, either in the militia or in the field, unless in cases of invasion or rebellion.

All actual mariners or seamen, in the respective States, shall be registered in districts, and divided into two classes; the first class to consist of all seamen, from the age of sixteen to thirty years, inclusively; the second class to consist of all those of the age of thirty-one to forty-five, inclusively.

The first class shall be responsible to serve three years on board of some public armed vessel or ship of war, as a commissioned officer, warrant officer, or private mariner; for which service, they shall receive the customary wages and emoluments.

But should the State not demand the said three years' service during the above period, from the age of sixteen to thirty years, then the party to be exempted entirely therefrom.

The person so serving shall receive a certificate of his service, on parchment, according to the form which shall be directed, which shall exempt him from any other than voluntary service, unless on such exigencies as may require the services of all the members of the community.

The second class shall be responsible for a proportion of service in those cases to which the first class shall be unequal.

The numbers required shall be furnished by sections, in the same manner as is prescribed for the sections of the militia.

*Of the Advanced Corps.*

The advanced corps are designed, not only as a school, in which the youth of the United States are to be instructed in the art of war, but they are, in all cases of exigence, to serve as an actual defence to the community.

The whole of the armed corps shall be clothed according to the manner hereafter directed, armed and subsisted, at the expense of the United States; and all the youth of the said corps, in each State, shall be encamped together, if practicable, or by legions; which encampments shall be denominated the annual camps of discipline.

The youth of eighteen and nineteen years shall be disciplined for thirty days successively in each year; and those of twenty-years shall be disciplined only for ten days of the annual encampments.

The non-commissioned officers and privates are not to receive any pay during the said time; but the commissioned officers will receive the pay of their relative ranks, agreeably to the Federal establishment for the time being.

In order that the plan shall effectually answer the end proposed, the first day of January shall be the fixed period, for all who attain the age of eighteen years in any part or during the course of each year, to be enrolled in the advanced



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corps, and to take the necessary oaths to perform, personally, such legal military service as may be directed, for the full and complete term of three years, to be estimated from the time of entrance into the said corps; and also to take an oath of allegiance to the State, and to the United States.

The commanding officer, or general of the advanced legions of the district, shall regulate the manner of the service of the youth, respectively, whether it shall be in the infantry, artillery, or cavalry; but after having entered into either of them, no change should be allowed.

Each individual, at his first joining the annual camps of discipline, will receive complete arms and accoutrements, all of which, previously to his being discharged from the said camps, he must return to the regimental quartermaster, on the penalty of — dollars, or — months' imprisonment.

The said arms and accoutrements shall be marked in some conspicuous place with the letters M. U. S. And all sales or purchases of any of said arms or accoutrements shall be severely punished according to law.

And each individual shall, also, on his first entrance into the advanced corps, receive the following clothing: one hat, one uniform short coat, one waiscoat, and one pair of overalls, which he shall retain in his own possession, and for which he shall be held accountable, and be compelled to replace all deficiencies during his service in the annual camps of discipline.

Those who shall serve in the cavalry shall be at the expense of their own horses, and uniform helmets, and horse furniture; but they shall receive forage for their horses, swords, pistols, and clothing, equal in value to the infantry.

At the age of twenty-one years, every individual having served in the manner and for the time prescribed shall receive an honorary certificate thereof, on parchment, and signed by the legionary general and inspector.

The names of all persons to whom such certificates shall be given shall be fairly registered in books to be provided for that purpose.

And the said certificate, or an attested copy of the register aforesaid, shall be required as an indispensable qualification for exercising any of the rights of a free citizen, until after the age of — years.

The advanced legions, in all cases of invasion or rebellion, shall, on requisition of lawful authority, be obliged to march to any place within the United States; to remain imbodyed for such time as shall be directed, not to exceed one year, to be computed from the time of marching from the regimental parades, during the period of their being on such service; to be placed on the continental establishment of pay, subsistence, clothing, forage, tents, camp equipage, and all such other allowances as are made to the federal troops, at the same time, and under the same circumstances.

If the military service so required should be for such a short period as to render an actual issue of clothing unnecessary, then an allowance should

be made in proportion to the annual cost of clothing for the federal soldier, according to estimates to be furnished for that purpose from the War Office of the United States.

In case the legions of the advanced corps should march to any place, in consequence of a requisition of the General Government, all legal and proper expenses of such march shall be paid by the United States. But should they be imbodyed and march in consequence of an order derived from the authority of the States to which they belong, and for State purposes, then the expenses will be borne by the State.

The advanced corps shall be constituted on such principles that, when completed, it will receive one-third part, and discharge one-third part of its numbers annually. By this arrangement, two-thirds of the corps will at all times be considerably disciplined; but as it will only receive those of eighteen years, it will not be completed until the third year after its institution. Those who have already attained the ages of nineteen and twenty years will, in the first instance, be enrolled in the main corps.

But one-half of the legionary officers to be appointed the first, and the other the second year of the establishment.

The officers of each grade in the States, respectively, shall be divided into three classes, which shall by lot be numbered one, two, and three; one of the said classes, according to their numbers, shall be deranged every third year. In the first period of nine years one-third part will have to serve three, one-third part six, and one-third part nine years; but after the said first period, the several classes will serve nine years, which shall be the limitation of service by virtue of the same appointment; and in such cases where there may not be three officers of the same grade, the limitation of nine years' service shall be observed. All vacancies occasioned by the aforesaid derangements, or any casualties, shall be immediately filled by new appointments.

The captains and subalterns of the advanced corps shall not be less than twenty-one, nor more than thirty-five; and the field officers shall not exceed forty-five years of age.

Each company, battalion, and regiment shall have a fixed parade or place at which to assemble. The companies shall assemble at their own parade, and march to the parade of the battalion, and the battalions to the regimental parade; and, when thus imbodyed, the regiment will march to the rendezvous of the legion. Every officer of a company, battalion, and regiment will be accountable to his superior officer that his command is in the most perfect order.

The officers to receive subsistence money in lieu of provision, in proportion to their respective grades; and those whose duties require them to be on horseback will receive forage in the same proportion.

Every legion must have a chaplain, of respectable talents and character, who, besides his religious functions, should impress on the minds of youths, at stated periods, in concise discourses,

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the eminent advantages of free Governments to the happiness of society, and that such Governments can only be supported by the knowledge, spirit, and virtuous conduct of the youths; to be illustrated by the most conspicuous examples of history.

No amusements should be admitted in camp but those which correspond with war—the swimming of men and horses, running, wrestling, and such other exercises as should render the body flexible and vigorous.

The camps should, if possible, be formed near a river, and remote from large cities. The first is necessary for the practice of the manœuvres; the second to avoid the vices of populous places.

The time of the annual encampments shall be divided into six parts or periods, of five days each; the first of which shall be occupied in acquiring the air, attitudes, and first principles of a soldier; the second, in learning the manual exercise, and to march individually, and in small squads; the third and fourth, in exercising and manœuvring in detail, and by battalions and regiments; in the fifth, the youth of twenty having been disciplined during the two preceding annual encampments are to be included. This period is to be employed in the exercise and tactics of the legion, or, if more than one, in executing the grand manœuvres of the whole body—marching, attacking, and defending, in various forms, different grounds and positions; in fine, in representing all the real images of war, excepting the effusion of blood.

The guards, and every other circumstance of the camp, to be perfectly regulated.

Each State will determine on the season in which its respective annual encampments shall be formed, so as best to suit the health of the men and the general interests of the society.

The United States to make an adequate provision to supply the arms, clothing, rations, artillery, ammunition, forage, straw, tents, camp equipages, including every requisite for the annual camps of discipline; and also for the pay and subsistence of the legionary officers, and for the following general staff: one inspector general, one adjutant general, one quartermaster general, with a deputy for each State.

These officers will be essential to the uniformity, economy, and efficacy of the system; to be appointed in the manner prescribed by the Constitution of the United States.

The quartermaster general shall be responsible to the United States for the public property of every species delivered to him for the annual camps of discipline; and his deputy in each State shall be responsible to him.

At the commencement of the annual camps of discipline, the deputy quartermaster will make regular issues to the legionary or regimental quartermasters, as the case may be, of all the articles of every species provided by the United States.

The return for the said articles to be examined and certified by the highest legionary or regimental officer, as the case may be, who shall be responsible for the accuracy thereof.

At the expiration of the annual camps of discipline, all public property (clothing excepted) shall be returned to the deputy quartermaster of the State, who shall hold the legionary quartermaster accountable for all deficiencies. All the apparatus and property so returned shall be carefully examined, repaired, and deposited in a magazine, to be provided in each State for that purpose, under the charge of the said deputy quartermaster, until the ensuing annual encampment, on any occasion which may render a new issue necessary.

Corporal punishments shall never be inflicted in the annual camps of discipline; but a system of fines and imprisonment shall be formed for the regular government of said camps.

*Of the Main Corps.*

As the main and reserved corps are to be replenished, by the principle of rotation, from the advanced corps, and ultimately to consist of men who have received their military education therein, it is proper that one uniform arrangement should pervade the several classes.

It is for this reason the legion is established, as the common form of all the corps of the militia.

The main legions, consisting of a great majority of the men of the military age, will form the principal defence of the country.

They are to be responsible for their proportion of men, to form an army whenever necessity shall dictate the measure; and, on every sudden occasion, to which the advanced corps shall be incompetent, an adequate number of non-commissioned officers and privates shall be added thereto from the main corps, by means of the sections.

The main corps will be perfectly armed in the first instance, and will practice the exercise and manœuvres four days in each year; and will assemble in their respective districts, by companies, battalions, regiments, or legions, as shall be directed by the legionary general; but it must be a fixed rule that, in the populous parts of the States, the regiments must assemble once annually, and the legions once in three years.

Although the main corps cannot acquire a great degree of military knowledge in the few days prescribed for its annual exercise, yet, by the constant accession of the youth from the advanced corps, it will soon command respect for its discipline as well as its numbers.

When the youth are transferred from the advance corps, they shall invariably join the flank companies, the cavalry, or artillery of the main corps, according to the nature of their former services.

*Of the Reserved Corps.*

The reserved corps will assemble only twice annually, for the inspection of arms, by companies, battalions, or regiments, as shall be directed by each State. It will assemble by legions, whenever the defence of the State may render the measure necessary.

Such are the propositions of the plan, to which it may be necessary to add some explanations.

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Although the substantial political maxim, which requires personal service of all the members of the community for the defence of the State is obligatory under all forms of society, and is the main pillar of a free Government, yet the degrees thereof may vary at the different periods of life, consistently with the general welfare. The public convenience may also dictate a relaxation of the general obligation, as it respects the principal magistrates and the ministers of justice and of religion, and perhaps some religious sects. But it ought to be remembered, that the measures of national importance never should be frustrated by the accommodation of individuals.

The military age has generally commenced at sixteen, and terminated at the age of sixty years; but the youth of sixteen do not commonly attain such a degree of robust strength as to enable them to sustain, without injury, the hardships incident to the field; therefore the commencement of military service is herein fixed at eighteen, and the termination, as usual, at sixty years of age.

As the plan proposes that the militia shall be divided into three capital classes, and that each class shall be formed into legions, the reasons for it shall be given in succession.

The advance corps, and annual camps of discipline, are instituted in order to introduce an operative military spirit in the community; to establish a course of honorable military service, which will at the same time mould the minds of the young men to a due obedience of the laws; instruct them in the art of war; and, by the manly exercise of the field, form a race of hardy citizens, equal to the dignified task of defending their country.

An examination into the employments and obligations of the individuals composing the society, will evince the impossibility of diffusing an adequate knowledge of the art of war by any other means than a course of discipline, during the period of non-age. The time necessary to acquire this important knowledge cannot be afforded at any other period of life, with so little injury to the public or private interests.

Without descending to minute distinctions, the body of the people of the United States may be divided into two parts: the yeomanry of the country, and the men of various employments resident in towns and cities. In both parts it is usual for the male children, from the age of fourteen to twenty-one years, to learn some trade or employment, under the direction of a parent or master. In general, the labor or service of the youth during this period, besides amply repaying the trouble of tuition, leaves a large profit to the tutor. This circumstance is stated to show that no great hardships will arise in the first operations of the proposed plan; a little practice will render the measure perfectly equal, and remove every difficulty.

Youth is the time for the State to avail itself of those services which it has a right to demand, and by which it is to be invigorated and preserved; in this season, the passions and affections are strongly influenced by the splendor of mili-

tary parade. The impressions the mind receives will be retained through life. The young man will repair with pride and pleasure to the field of exercise; while the head of a family, anxious for its general welfare, and perhaps its immediate subsistence, will reluctantly quit his domestic duties for any length of time.

The habits of industry will be rather strengthened than relaxed by the establishment of the annual camps of discipline, as all the time will be occupied by the various military duties. Idleness and dissipation will be regarded as disgraceful, and punished accordingly. As soon as the youth attain the age of manhood, a natural solicitude to establish themselves in the society will occur in its full force. The public claims for military service will be too inconsiderable to injure their industry. It will be sufficiently stimulated to proper exertions, by the prospects of opulence attending on the cultivation of a fertile soil, or the pursuits of a productive commerce.

It is presumed that thirty days, annually, during the eighteenth and nineteenth, and ten days during the twentieth year, is the least time that ought to be appropriated by the youth to the acquisition of the military art. The same number of days might be added during the twentieth as during the two preceding years, were not the expense an objection.

Every means will be provided by the public to facilitate the military education of the youth, which it is proposed shall be an indispensable qualification of a free citizen; therefore they will not be entitled to any pay. But the officers, being of the main corps, are in a different predicament; they are supposed to have passed through the course of discipline required by the laws, and to be competent to instruct others in the military art. As the public will have but small claims for personal services on them, and as they must incur considerable expenses to prepare themselves to execute properly their respective offices, they ought to be paid while on actual duty.

As soon as the service of the youth expires in the advanced corps, they are to be enrolled in the main corps. On this occasion the Republic receives disciplined and free citizens, who understand their public rights, and are prepared to defend them.

The main corps is instituted to preserve and circulate throughout the community the military discipline acquired in the advanced corps—to arm the people, and fix firmly, by practice and habit, those forms and maxims which are essential to the life and energy of a free Government.

The reserved corps is instituted to prevent men being sent to the field whose strength is unequal to sustain the severities of an active campaign; but by organizing and rendering them eligible for domestic service, a greater proportion of the younger and robust part of the community may be enabled, in cases of necessity, to encounter the more urgent duties of war.

It would be difficult, previously to the actual formation of the annual camps of discipline, to ascertain the number in each State of which it would

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be composed. The frontier counties of several States are thinly inhabited, and require all their internal force for their immediate defence. There are other infant settlements from which it might be injurious to draw away their youth annually for the purpose of discipline.

No evil would result, if the establishment of the advanced corps should be omitted in such districts for a few years. Besides, the forbearance in this respect would lessen the expense, and render the institution more compatible with the public finances.

The several State Legislatures, therefore, as best understanding their local interests, might be invested with a discretionary power to omit the enrolments for the advanced corps in such of their frontier and thinly-inhabited counties as they may judge proper.

If the number of three millions may be assumed as the total number of inhabitants within the United States, half a million may be deducted therefrom for blacks; and, pursuant to the foregoing ideas, another half million may be deducted on account of the thinly-settled parts of the country.

The proportion of men of the military age, from eighteen to sixty years, inclusively, of two millions of people, of all ages and sexes, may be estimated at four hundred thousand. There may be deducted from this number, as actual mariners, about fifty thousand, and a further number of twenty-five thousand, to include exempts of religious sects, and of every other sort which the respective States may think proper to make.

Three hundred and twenty-five thousand, therefore, may be assumed as the number of operative fencible men to compose the militia. The proportion of the several classes of which would be nearly as follows:

Firstly. The advanced corps, one-tenth composed of the youth of the ages of eighteen, nineteen, and twenty years	32,500
Secondly. The main corps, six-tenths and one-twentieth	211,250
Thirdly. The reserved corps, two-tenths and one-twentieth	81,250
	<u>325,000</u>

The following estimate is formed, for the purpose of exhibiting the annual expense of the institution of the advanced corps, stating the same at thirty thousand men.

Estimate of the expense of the annual camps of discipline, as proposed in the foregoing plan, arising on each of the first three years, and, after that period, of the annual expense of the institution.

*The first year.*

10,000 suits of uniform clothing, stated at eight dollars, each suit of which shall serve for three years' discipline	\$80,000
10,000 rations per day for thirty days, each ration stated at ten cents	30,000
The expense of four complete corps of legionary officers of all descriptions for thirty days, including pay, subsistence, and forage	27,870

Forage for the cavalry	4,800
Straw, camp-kettles, bowls, axes, canteens, and fuel	20,000
Annual proportion of the expense of tents for officers and soldiers, which may serve for eight annual encampments	3,000
Four legionary standards	2,000
Regimental colors	1,000
Consumption of powder and ball, shot and shells, damage to arms and accoutrements, and artillery, and transportation of the same, stated at	25,000
Hospital department	5,000
Contingencies of the Quartermaster's and other departments	15,000
General staff, Adjutant General, Quartermaster General, Inspector General, and their deputies	12,000

Entire expenses of the first year - \$225,670

*Additional expenses on the second year.*

10,000 rations per day for thirty days, are 300,000 rations, at 10 cents	\$30,000
The expense of four complete corps of legionary officers, of all descriptions, for thirty days, including pay, subsistence, and forage	27,870
Four legionary standards	2,000
Regimental colors	1,000
Forage for the cavalry	4,800
Tents, straw, camp-kettles, bowls, axes, canteens, and fuel	26,000
Hospital department	5,000
Contingencies in Quartermaster's and other departments	15,000
Ammunition, damage to arms and accoutrements	15,000
	<u>120,670</u>
Expense of the first year	225,670

Combined expenses of the first and second years - \$346,340

*Additional expenses on the third year.*

The expense of 10,000 rations for ten days, is 100,000 rations, at 10 cents	\$10,000
Forage	1,600
For the camp equipage	10,000
Tents	1,500
Hospital stores	1,000
Ammunition, damage to arms and accoutrements	10,000
Contingencies in the Quartermaster's and other departments	10,000
	<u>44,100</u>
Combined expenses of the first and second years	346,340

The total expense of the first three years - \$390,440

It is to be observed, that the officers for four legions will be adequate to command the youth of eighteen who commence their discipline the first year, and that the same number of officers will be required for the second year. The youth

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of the third year may be incorporated by sections, in the existing corps, so that no additional officers will be required on their account.

Hence it appears that the expense of 10,000 men for one year, amounts to - - - \$225,670  
 Twenty thousand, for the second year, to - 346,340  
 Thirty thousand, for the third year, to - 390,440  
 If the youth of the three ages of eighteen, nineteen, and twenty, be disciplined at once, the last mentioned sum will be about the fixed annual expense of the camps of discipline; from which, however, is to be deducted \$6,000, being the expense of the standards and colors, the former of which will be of a durable nature, and the latter will not require to be replaced oftener than once in twenty years - - - 6,000

The annual expense of the advance corps - 384,440

Thus, for a sum less than four hundred thousand dollars annually, which, apportioned on three millions of people, would be little more than one-eighth of a dollar each, an energetic republican militia may be durably established; the invaluable principles of liberty secured and perpetuated; and a dignified national fabric erected on the solid foundation of public virtue.

The main and reserved corps must be perfectly organized in the first instance, but the advanced corps will not be completed until the third year of its institution.

The combination of troops, of various descriptions, into one body, so as to invest it with the highest and greatest number of powers, in every possible situation, has long been a subject of discussion and difference of opinion. But no other form appears so well to have sustained the criterion of time and severe examination, as the Roman legion. This formidable organization, accommodated to the purposes of modern war, still retains its original energy and superiority. Of the ancients, Polybius and Vegetius have described and given the highest encomiums of the legion. The former, particularly, in his comparative view of the advantages and disadvantages of the Macedonian and Roman arms, and their respective orders of battle, has left to mankind an instructive and important legacy. Of the moderns, the illustrious Mareschal Saxe has modelled the legion for the use of fire-arms, and strenuously urges its adoption, in preference to any other form. And the respectable and intelligent veteran, late Inspector General of the armies of the United States, recommends the adoption of the legion.

"Upon a review," says he, "of all the military of Europe, there does not appear to be a single form which could be safely adopted by the United States. They are unexceptionably different from each other, and, like all other human institutions, seem to have started as much out of accident as design. The local situation of the country, the spirit of the Government, the character of the nation, and, in many instances, the character of

the prince, have all had their influence in settling the foundation and discipline of their respective troops, and render it impossible that we should take either as a model. The legion alone has not been adopted by any; and yet I am confident in asserting, that whether it be examined as applicable to all countries, or as it may immediately apply to the existing or probable necessity of this, it will be found strikingly superior to any other:

"1st. Being a complete and little army of itself, it is ready to begin its operations on the shortest notice, or slightest alarm.

"2d. Having all the component parts of the largest army of any possible description, it is prepared to meet every species of war that may present itself; and

"3d. As in every case of detachment, the first constitutional principle will be preserved, and the embarrassments of draughting and detail, which, in armies differently framed, too often distract the commanding officer, will be avoided."

It may easily suggest itself from this sketch, that, in forming a legion, the most difficult task is to determine the necessary proportion of each species of soldiers which is to compose it.

This must obviously depend upon what will be the theatre, and what the style of the war. On the plains of Poland, whole brigades of cavalry would be necessary against every enemy; but in the forests and among the hills of America, a single regiment would be more than sufficient against any. And as there are but two kinds of war to which we are much exposed, viz: an attack from the sea side by a European Power, aided by our sworn enemies settled on our extreme left, and an invasion of our back settlements by an Indian enemy, it follows, of course, that musketeers and light infantry should make the greatest part of our army.

The institution of the section is intended to interest the patriotism and pride of every individual in the militia; to support the legal measures of a free Government; to render every man active in the public cause, by introducing the spirit of emulation, and a degree of personal responsibility.

The common mode of recruiting is attended with too great destruction of morals to be tolerated, and is too uncertain to be the principal resource of a wise nation in time of danger. The public faith is frequently wounded by unworthy individuals, who hold out delusive promises which can never be realized. By such means, an unprincipled banditti are often collected for the purpose of defending everything that should be dear to freemen. The consequences are natural; such men either desert in time of danger, or are even ready, on the slightest disgust, to turn their arms against their country.

By the establishment of the sections, an ample and permanent source is opened, whence the State, in every exigence, may be supplied with men whose all depends upon the prosperity of their country.

In cases of necessity, an army may be formed of citizens, whose previous knowledge of discip-

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line will enable it to proceed to an immediate accomplishment of the designs of the State, instead of exhausting the public resources by wasting whole years in preparing to face the enemy.

The previous arrangements necessary to form and maintain the annual encampments, as well as the discipline acquired therein, will be an excellent preparation for war.

The artillery and its numerous appendages, arms, and accoutrements of every kind, and all species of ammunition, ought to be manufactured within the United States. It is of high importance that the present period should be embraced to establish adequate institutions to produce the necessary apparatus of war.

It is unworthy the dignity of a rising and free empire to depend on foreign and fortuitous supplies of the essential means of defence.

The clothing for the troops could, with ease, be manufactured within the United States, and the establishment in that respect would tend to the encouragement of important manufactories.

The disbursements made in each State for the rations, forage, and other necessary articles for the annual camps of discipline, would most beneficially circulate the money arising from the public revenue.

The local circumstances of the United States, their numerous seaports, and the protection of their commerce, require a naval armament. Hence the necessity of the proposed plan, embracing the idea of the States obtaining men on republican principles, for the marine as well as the land service. But one may be accomplished with much greater facility than the other, as the preparation of a soldier for the field requires a degree of discipline which cannot be learned without much time and labor; whereas, the common course of sea service on board of merchant vessels differs but little from the service required on board of armed ships; therefore, the education for war, in this respect, will be obtained without any expense to the State. All that seems to be requisite on the head of marine service is, that an efficient regulation should be established in the respective States to register all actual seamen, and to render those of a certain age amenable to the public for personal service, if demanded within a given period.

The constitutions of the respective States, and of the United States, having directed the modes in which the officers of the militia shall be appointed, no alteration can be made therein. Although it may be supposed that some modes of appointment are better calculated than others to inspire the highest propriety of conduct, yet there are none so defective as to serve as a sufficient reason for rejecting an efficient system for the militia. It is certain that the choice of officers is the point on which the reputation and importance of a corps must depend. Therefore, every person who may be concerned in the appointment should consider himself as responsible to his country for a proper choice.

The wisdom of the States will be manifested by inducing those citizens of whom the late

American army was composed to accept of appointments in the militia. The high degree of military knowledge which they possess was acquired at too great a price, and is too precious, to be buried in oblivion; it ought to be cherished, and rendered permanently beneficial to the community.

The vigor and importance of the proposed plan will entirely depend on the laws relative thereto; unless the laws shall be equal to the object, and rigidly enforced, no energetic national militia can be established.

If wealth be admitted as a principle of exemption, the plan cannot be executed. It is the wisdom of political establishments to make the wealth of individuals subservient to the general good, and not to suffer it to corrupt or attain undue indulgence.

It is conceded that people, solicitous to be exonerated from their proportion of public duty, may exclaim against the proposed arrangement as an intolerable hardship. But it ought to be strongly impressed, that while society has its charms, it also has its indispensable obligations. That to attempt such a degree of refinement as to exonerate the members of the community from all personal service, is to render them incapable of the exercise, and unworthy of the characters of freemen.

Every State possesses not only the right of personal service from its members, but the right to regulate the service on principles of equality for the general defence. All being bound, none can complain of injustice, on being obliged to perform his equal proportion. Therefore, it ought to be a permanent rule, that those who in youth decline or refuse to subject themselves to the course of military education established by the laws, should be considered as unworthy of public trust or public honors, and be excluded therefrom accordingly.

If the majesty of the laws should be preserved inviolate in this respect, the operations of the proposed plan would foster a glorious public spirit, infuse the principles of energy and stability in the body politic, and give a high degree of political splendor to the national character.

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#### ADDITIONAL MILITARY ACADEMY.

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[Communicated to the House January 29, 1819.]  
*Letter from the Secretary of War to the Chairman of the Military Committee, on the subject of an additional Military Academy, and a School of Practice.*

DEPARTMENT OF WAR, Jan. 15, 1819.

SIR: In reply to that part of your letter of the 20th of November, which requests my opinion on the expediency of establishing one or more additional military academies, and their places of location, and such other information and facts as I may deem proper to communicate on these subjects, with the probable annual expenses of these establishments, I have the honor to make the following statement:

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The number of cadets now authorized by law is two hundred and fifty, who are divided into four classes; the cadets of one of which every year terminate their studies, and are promoted into the Army. As the academy is now nearly full, it is probable that the number which will annually terminate their studies, and, consequently, will be candidates for promotion, will not be much short of fifty. The number of vacancies in the Army which have occurred, from the 1st of August, 1816, to the 1st of May, 1818, has been one hundred and forty-eight, or about eighty-four per annum; but, as it is probable that the causes which have operated to produce so many vacancies in this time have been accidental and consequent on the change from active service to the inactivities of a peace establishment, there will not, it is believed, in future, be so many; and that the cadets who will annually terminate their studies at West Point, will be equal, or nearly so, to the annual average vacancies. In this view of the subject, an additional military academy would not now be required. But it seems to me that the question ought not to be determined by a reference simply to the wants of our military peace establishment, which, from our geographical position, and the policy of our Government, will always bear a small proportion to the population of the country, and to our military establishment in time of war. So far from graduating the number or extent of our military academies by the wants of the Army in time of peace, the opposite principle would, probably, be more correct; that, in proportion as our regular military establishment is small, the Government ought to be careful to disseminate, by education, a knowledge of the art of war. The Army itself is a practical school of this art, which, except in the higher branches, may, where it bears a large proportion to the population of the country supersede other modes of perpetuating or disseminating this indispensable art. But, in a country situated as ours is, with a small standing army, and far removed from any Power from which we have much to fear, the important knowledge of the art of defending our shores, will, in a long peace, without the particular patronage of the Government, be nearly lost. The establishment of military academies is the cheapest and safest mode of procuring and perpetuating this knowledge. The Government ought to furnish the means to those who are willing to bestow their time to acquire it. The cadets who cannot be provided for in the Army will return to private life; but, in the event of war, their knowledge will not be lost to the country. The Government may then avail itself of their military science, and, though they may not be practically acquainted with all the details of duty in an army, they will acquire it in a much shorter time than those who have not had the advantage of a military education. No truth is better supported by history than that, other things being nearly equal, victory will be on the side of those who have the best instructed officers. The duties of a soldier are few and simple, and, with well instructed officers, they can

be acquired in a short time, as our own experience, and that of other countries has satisfactorily proved. To form competent officers, in the present improved state of the art of war, is much more difficult; as an officer, besides a knowledge of the duties belonging to the soldier, has others of a more difficult nature to acquire, and which can only be acquired by long experience, or by a regular military education.

With these views, I would recommend one additional military academy. It ought to be placed where it would mutually accommodate the Southern and Western portions of our country, which are the most remote from the present institution.

Besides an additional academy, I would submit, for the consideration of the committee, the propriety of establishing a school of practice, to be fixed near the Seat of Government. On this important subject I respectfully annex, as a part of this communication, a report from General Bernard and Colonel McRee, to this Department, in which the subject is so fully discussed as to supersede the necessity of any further observations.

The expenses of erecting the necessary buildings for an additional military academy, on a scale as extensive as that of West Point, would cost about one hundred and thirty thousand dollars, of which sum, however, but a small part would be required for this year. The current expenses of this institution would (excluding the pay of the cadets, which is sixteen dollars per month, and two rations per day,) probably amount to about twenty-two thousand dollars per annum.

For the school of practice there would be but little expense, except the erection of the necessary buildings for the accommodation of the institution. The pay of the superintendent and professors, should they be even taken from the citizens, would not exceed eight thousand five hundred dollars, which would constitute nearly the whole of the current expense, as the lieutenants of artillery and engineers, while at the institution, will not receive any additional pay or emoluments. The expense of the buildings may be estimated at eighty thousand dollars, of which, however, but a small part would be required for the present year.

I have the honor to be, &c.

J. C. CALHOUN.

HON. R. M. JOHNSON,  
*Chairman Com. Military Affairs.*

*Considerations on the course of instruction necessary for the officers of the different arms of an Army.*

Circumstances of locality, the nature of the operations of war, and the variety of the means employed for the purposes of destruction and preservation, have naturally led to the subdivision of an army into several parts, which differ in their manner of combating, but which are also intended to render reciprocal aid to each other, to co-operate most efficaciously to the same end, and to constitute, when in action, but one combined whole.

This subdivision existed among the ancients, as it does among the moderns; and with both, (the

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absolute and relative numerical force of these subdivisions being supposed nearly equal) the systems of war have been uniformly more perfect, and productive of greater results, in proportion as the several parts were better calculated to act with promptitude, precision, and in concert. These parts are designated in modern armies by the word arm; and consist of infantry, cavalry, artillery, and engineers. Each of these arms acts occasionally as principal or accessory. In a battle the infantry is, in general, the principal arm; while the three others are more or less accessaries; in the pursuit of a retreating army, the cavalry becomes the principal; and in a siege, the artillery and engineers are the principal arms, and the rest are merely great auxiliaries.

Among the means which modern discipline employs to give the greatest effect to the combined action of these arms, is instruction. And here the same motives which have resorted to a subdivision of labor, as a powerful cause of perfection in objects of general industry, have also led to a subdivision of military instruction, as most productive of that concert and efficiency desirable in the operation of an army. This instruction, and the objects and advantages of its subdivision, are the subjects of present consideration.

To obtain, by the aid of military instruction, greater effect in the particular or combined employment of the different arms, two modes immediately present themselves: *First*, That each arm should be composed of individuals versed exclusively in the theory and practice of that arm; *Second*, That the individuals composing each arm should be instructed equally in the theory and practice of all other arms. The first of these methods is insufficient; because, in giving to each individual merely the knowledge necessary to the duties of his own arm, it leaves him deficient of what is necessary to connect the operations of that arm with the operations of the rest, as parts of one general system. The second is impracticable; because it is the privilege of but few individuals to possess that facility of intellect which is requisite to embrace four branches of knowledge as extensive as are those in question, and to practise them all with that correctness and promptitude which is the peculiar advantage of such as devote themselves principally to but one of these branches. In order to avoid both of these inconveniences, the theoretical and practical knowledge necessary in the conduct and operations of an army has been divided into two distinct classes; the one embracing whatever is common to all other arms; the other confined to what particularly appertains to each arm. A consequent and similar division has followed in the instruction; the first branch to include what is necessary and useful to the service of every arm; the second to include the theory and practice of each arm in particular. Hence the necessity of an elementary or common school, where the knowledge common to every arm should be given alike to all who are intended for the army; and a school of a higher order for the purpose of increasing, when necessary, the elementary knowledge which has pre-

viously been acquired to the extent demanded; and teaching its application to the particular objects and duties of each arm, which constitute a school of application. In those countries which have large military establishments, there is a school of application for each arm. But those nations who in time of peace kept but a feeble military force on foot, find it advantageous to unite, as far as possible, these different schools of application in one; where such as are admitted for the service of those arms which demand a more advanced theoretical, or more varied practical knowledge, receive their last degree of academical instruction. In this last case, the students at the school of application receive likewise two kinds of instruction: First, that which is common to the several arms to which they are destined; and, second, that which is exclusively necessary to the arm in which they are respectively to serve.

Among all nations possessing military academies, the schools of application for such as are destined for the infantry and cavalry, are the regiments of the army in which they are to serve. It is on joining and doing duty with their respective regiments, that they learn to apply the instruction received at the elementary school, and acquire whatsoever relates to the discipline, the conduct, administration, and legislation of troops.\*

This cannot be the case, however, with those destined for the artillery and engineers, or the topographical corps. They are all more or less liable to be employed separately, and immediately after leaving the school; and are deprived of the advantages peculiar to the officer of infantry or cavalry, of making their first essays in their professional duties, under the eyes of their chiefs, or of those who have preceded them; and being unassisted by the advice or opinions of their superiors in rank, knowledge, and experience, they are not only left without the means of obtaining the instruction of which they are yet deficient, but are also frequently exposed in the execution of the duties confided to them, to compromise the public service by the commission of errors, which too often lead to irreparable misfortunes, and which are productive at least of a wasteful expenditure of public property, always beyond, sometimes exceeding a hundred fold the expense of giving a proper education to the individual who has not been qualified to exercise his profession with satisfaction to himself or utility to his country.

These considerations alone appear to us sufficient to show the advantage, if not necessity, of dividing the course of military instruction between two schools; the one elementary and the other a school of application.

The elementary school at West Point has hith-

\* In the military schools of infantry and cavalry in France, theoretical lessons in these branches of military instruction were given to the scholars; and, for the sake of uniformity in that instruction, these courses were very useful. The service of the despot served afterwards as a school of application.



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erto been very inferior as such; and altogether inadequate to the objects for which it was established. A project has been presented, however, calculated to place this school upon the footing of the most perfect of the kind which exist. As to the school of application there is none. The degree of instruction given to the cadets at the school of West Point, has heretofore been for the most part limited to a general acquaintance with those branches of knowledge, which are common to all the arms of an army; and which ought to have been extended, and applied to artillery, fortification, and topography. The consequence has been, that the officers of infantry, artillery, engineers, and of the topographical corps, have had the same degree and kind of instruction; and the only real difference which existed between them on leaving the school, consisted in the uniform of their respective corps or regiments. If any have been so fortunate as to render themselves serviceable, either in the artillery or engineers, the cause must be sought for in their own industry, and not in the education received by them at West Point, which was barely sufficient to excite a desire for military inquiries and of military pursuits.

It remains to enumerate the branches of knowledge which are common to all the arms; and those which are necessary, and appertain more or less exclusively to each or several of these arms. The subjoined table exhibits the two principal divisions of the instructions. The first part includes the branches of knowledge that are necessary to all who are destined for any arm of the military establishment; either as officers in the exercise of their immediate professional duties, or as men of information, liable, in the course of their military career, to be intrusted with other interests. It is, therefore, that the mathematics, for instance, are extended further than is strictly necessary to the officer of infantry; that natural and experimental philosophy and chemistry are inserted under the elementary division, rather as forming part of a liberal education than of mere military utility; and, finally, the several kinds of drawings are only taught in the elementary division, as an advantageous introduction to the prompt acquisition and exercise of the art of topographical delineations. This division, or elementary part of the instruction, will require five professors, three teachers, and two instructors. The number of assistants, &c. depends upon the number of individuals at the school.

The same table presents the second part of the instruction, which is in addition to the first, and is necessary to those destined to the engineers, artillery, or topographical corps. Here the mathematics are carried to a higher degree, which is rendered necessary by their application to machines, the theory of artillery, the construction of charts, &c. Descriptive geometry is applied to machines and fortification. Fortification is taught to the extent which is exclusively necessary to the officer of engineers; and artillery to the extent that is only required for the officers at that arm. Geometry and trigonometry receive their applications to topographical operations;

and spherical trigonometry and descriptive geometry, to the projection, &c., of charts. This part of the instruction will demand four professors. Because, either these two divisions of the instruction will be taught at one school, or two separate schools. In the first case, the professors of the elementary course will be insufficient, and cannot attend to a course of instruction thus extended: in the second case, the four professors before mentioned become absolutely necessary. But whether the entire course (or both of these divisions of the instruction) shall be taught at the same, or at two separate schools, it will not be the less indispensable that a division of it, similar to that here established, should exist in fact. The question is, therefore, reduced to this: shall the elementary, or first part of the course of the instruction, be taught at West Point, and the second part at a separate school, to be established elsewhere? Or shall the second part constitute an additional class or classes, at the school of West Point, to consist of those cadets only who are destined for the engineers, artillery, and topographical corps, and who shall have previously passed through the elementary classes?

The second division of the course of instruction exhibited by the annexed table, and which must constitute either a school, or classes of application, is practical as well as theoretical. The application of the elementary branches of instruction, and the branches of mathematics, to the theory of artillery, fortification, and topography, forms the theoretical or academic part of the division of the course of instruction, while the application of these theories to the circumstances of the ground, &c., requires, and must be taught to the students, by a course of actual experiments, and practical exemplifications in the field. It is necessary to make this remark, in order to a just appreciation of all the considerations which should influence in the decision of the present question.

The advantages which may be derived from a union of the school of application, in the shape of additional classes, to the elementary school, are almost exclusively those of economy, and admit of being correctly ascertained; they consist—

1st. In having certain duties that are common and necessary to both establishments performed by the same individuals who are now employed for those purposes at West Point. Such are the duties of the superintendent, most of the officers of the military staff, and disbursing department.

2d. In the purchase of an additional site, which will be avoided.

3d. In saving the additional expense of quarters, academical, and any other buildings, to the extent that they now exist at West Point, beyond the wants of that establishment.

4th. In saving the expense of purchasing a library, instruments, &c., to the extent of those now on hand at West Point.

5. In saving the travelling and other expenses to which the graduates of the elementary school would be subjected, in order to join and com-

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mence their course at the school of application, if these institutions were separate; and,

6th. In avoiding a loss of time on the part of the graduates, which would take place on their transfer to the school of application in the case just supposed.

The following are the considerations which oppose a union, and which consequently urge a separation of these two schools.

1st. The classes of application will consist of those individuals destined for the artillery, engineers, and topographical corps, who shall have graduated at the termination of the elementary course of instruction, and who will consequently be then promoted, by brevet or otherwise, in the same manner as those destined for the infantry. There must probably be two classes of application; and the number of students of which they ought to consist, in order to supply the annual vacancies in their respective arms, will not be less than seventy. The school will, therefore, be augmented to this amount, and will be composed of commissioned officers and cadets, whose rights, interests, and occupations, will be more or less dissimilar; and who must, consequently, be governed by regulations, &c., essentially different, which will at once destroy that unity of system necessary to all military institutions.

2d. The difference in point of rank, in the students of the elementary classes, and those composing the classes of application, will originate claims to precedence and superiority on the one part, and resistance to such pretensions on the other, which no regulations can restrain within proper limits.

3d. It will be necessary to have two sets of professions at the same school, and in several instances two professors of the same department of science, who will be independent of each other. Hence, increased occasions of discord. Individual interest and feelings must of necessity, and frequently will be brought into collision; which experience has sufficiently proved, would lead, first to divisions among the academic staff, and finally to the formation of parties among the officers and cadets, destructive of that harmony and order which should prevail, and are believed essential to the successful operations of the school.

4th. The duties of the two sets of professors, the studies and occupations of the officers and cadets, being different in their character, and requiring to be arranged differently, as to time and other circumstances, will render two distinct systems of organization and police indispensable, which frequently cannot be made to accord, without incurring some inconvenience or injury, or without the sacrifice of some advantage on the part of one or the other division of the school, and perhaps of both. The superintendent will, in fact, have two schools to govern and conduct. His time and attention will, therefore, be divided, alternately occupied with the peculiar concerns of each, and frequently employed in reconciling conflicting interests. The whole system of administration for the two schools will be more or

less controlled or influenced by the inconvenient and unnecessary relations in which they are placed to each other.

The advantages and disadvantages here enumerated, as attending the union of the two divisions of the course of military instruction, at the same school, are obviously too different in their kind to admit of being compared; nor is it necessary that they should be. The expense attending the separate establishment of a school of application might be offered as a reason for rejecting it altogether, but by no means for uniting it to the elementary school, when the operations of both would be obstructed in consequence of so doing, and their ultimate success rendered more than doubtful.

Among the advantages that will be derived from the establishment of a school of application, are the means it will afford of providing for other departments of national service, besides those which have been mentioned; and, by locating it immediately under the eyes of the Government, the measures necessary to enlarge, or to adapt it to the particular objects in view, will be more readily ascertained, and applied with greater certainty of effect. The necessity of this institution will become urgent, in the event of one or more additional elementary schools being created. It will then be expedient for those very reasons of economy which now form the only objections that can be opposed to it; and it will be necessary, because it will enable the respective candidates for the engineer, artillery, and topographical corps, to be assembled at the same school, and to receive, in common, their last degree of instruction; and because that by no other means can that uniformity in the instruction and duties of each of these arms be attained, which is essential to their perfection.

We are, therefore, of opinion, that a school of application is decidedly necessary to the military service of the country; that, to be rendered efficient, it ought to be separate from all immediate connexion with any other institution; and that it should have a central location, and as little removed as possible from under the observation of Government.

Which is respectfully submitted to the honorable J. C. Calhoun, Secretary of War.

BERNARD, *Brigadier General.*

WM. McREE, *Maj. of Engineers.*

TABLE OF A COURSE OF INSTRUCTION FOR OFFICERS  
OF THE VARIOUS ARMS OF AN ARMY.

*Division of Instruction common to Infantry, Artillery, Engineers, and Topographical Corps.*

Mathematics.	{ Arithmetic, including logarithms; geometry, algebra, plane trigonometry, and mechanical powers.	1 professor.
Chemistry	{ Animals, vegetables, and mineralogy.	1 professor.

*Military Academy at West Point.*

Natural & experimental philosophy.	Of bodies; laws of motion and forces, gravity and attraction, &c.; properties and theory of air, water, light, heat, &c.; theory of electric, galvanic, and magnetic fluids; geology; and elements of astronomy.	1 profes.*
Descriptive geometry and fortification.	Elements of descriptive geometry; castrametation & field fortification; attack and defence of field fortifications and retrenched posts, &c.; and military reconnoiterings.	1 professor.
Artillery	Elements of artillery; garrison and field services of artillery, &c.	1 instructor.
Infantry	Drill of the soldier; school of the platoon and battalion; evolutions of the line, &c.; and elements of grand tactics and strategy.	1 instructor.†
Drawing	Human figure, landscape, and topographical delineations.	1 master.
French language	- - - - -	1 master.
Riding and sword exercise	- - - - -	1 master.
<i>Division of Instruction necessary to the Artillery, Engineers, and Topographical Corps.</i>		
Mathematics.	Conic sections, spherical trigonometry, fluxions, mechanics, and application of fluxions and mechanics to machines.	1 professor.
Descriptive geometry and fortification.	Application of descriptive geometry to machines and to fortifications; fortification (permanent) of places, sea-coasts, and retrenched camps; attack and defence of fortresses, &c.; mines; construction of works, of fortifications, and military edifices.	1 professor.
Artillery	Construction of small arms, cannon, mortars, howitzers, &c.; gun-carriages, caissons, &c.; service in sieges, in the field, &c.; preparation of munitions of war, fire-works, &c.	1 professor.
Topography.	Application of descriptive geometry, &c., to the projection of geograph' l charts; geodesy; topograph' l surveys and representations of ground; knowledge and practice of instruments employed in the operations of topography, geography, and geodesy.	1 professor.

NOTE.—This presents only the heads of instruction. An analysis of each would enlarge the table to a volume.

\* These courses are highly useful, and indeed indispensable, for forming engineers and officers of artill-

## MILITARY ACADEMY AT WEST POINT.

[Communicated to the Senate, February 5, 1819.]

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 25th of last month, requesting me "to cause to be laid before it a copy of the rules and regulations adopted for the government of the Military Academy at West Point; also, how many cadets have been admitted into the Academy; the time of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United States," I transmit a report from the Secretary of War, which, with the accompanying documents, will afford all the information required by the said resolution.

JAMES MONROE.

FEBRUARY 5, 1819.

\* DEPARTMENT OF WAR, Feb. 4, 1819.

The Secretary of War, to whom was referred the resolution of the Senate of the 25th January last, "that the President of the United States be requested to cause to be laid before the Senate a copy of the rules and regulations adopted for the government of the Military Academy at West Point; also, how many cadets have been admitted into the Academy; the time of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United States," has the honor to transmit, herewith, a list of cadets who have been admitted at the Military Academy at West Point, in the State of New York; the time of their admission, and promotion, &c.; and the time they remained at that institution; and a copy of the rules and regulations adopted for the government of the Military Academy at West Point.

The cadets are under the government of the rules and articles of war, so far as they are applicable, and under the orders of the superintendent of the Academy.

JOHN C. CALHOUN.

lery; but they do not seem to me to enter into the necessary education of an officer of infantry, otherwise than as forming part of the general information of which it is proper that no gentleman should be entirely ignorant.

If it would not be presumptuous in me to offer an improvement on the proposed plans of so excellent a judge as General Bernard, I would suggest that another course requiring another instructor for teaching military administration and legislation, an abstract of the American Constitution, of our militia laws, would be useful to all the young officers in the school; and more particularly so to the officers of infantry, than chemistry and natural philosophy.

† In addition to these lessons, I think the same instructor, who should be some experienced officer, might give some lessons of the service of the infantry in garrison and in the field, of daily discipline; and more particularly of the service of the light infantry and riflemen, adapted to Indian warfare, &c.

*Military Academy at West Point.*

DEPARTMENT OF WAR, July 1, 1816.

SIR: I have the honor to return the regulations defining a complete course of education, drawn up by the academical staff, and transmitted by you to this department, which has been approved, with such modifications as have been judged necessary, by the President.

From the age at which cadets are admitted into the Academy, the study of the English grammar is deemed indispensable to give them a correct and intimate knowledge of the structure of their own language.

Although a critical knowledge of the Latin and Greek languages is not considered essentially necessary, yet, where the cadets have studied those languages before their appointments, it is believed that the review of those languages during the last year of study will add to the reputation of the institution, and cannot fail to be useful to the cadets.

It is expected that the duties required by these additions will be performed by the chaplain employed in the Academy. The performance of these duties, it is hoped, will be an inducement with Congress, when this subject shall again be brought under their consideration, to make the appointment permanent, not only at West Point, but at such other establishment of that nature as shall be deemed necessary by that body.

If, in the opinion of the academical staff, these branches of education can be advantageously prosecuted at periods different from those fixed in the regulations, their suggestions will be attended to with pleasure.

The inducement to the other alterations will readily suggest itself to your mind. That a cadet, who having been thrown into a class below him, and subsequently in the course of his education finds himself placed in the same situation, will not be qualified for an engineer, may be readily conceived; but it by no means follows that he may not possess many of the qualifications of a general in a higher degree than some of those who greatly excel him in his studies. The absolute dismissal for that cause has, therefore, been changed into a reference to the War Department.

These regulations will apply to all cases where the cadet presents himself for admission after they are received at the Academy, notwithstanding their appointments may be of anterior date.

The regulation requiring the unmarried professors, teachers, and assistants to eat with the cadets, is believed to be conformable to the general usage of colleges, and ought not to be considered onerous. I understand, also, that Captain Partridge is himself a bachelor, and of course subject to the regulation. From his signing some of his acts as superintendent of the Academy, he may have supposed that he was not embraced by the rule. This, however, is a mistake. No officer, as long as the law remains as it is, can be the superintendent of the institution but the principal officer of the corps of engineers, or the next in command of that corps, in case of his absence. If, however, in your opinion, the proposition

made by the academical staff to attend the mess-houses, and make daily reports of the fare, will protect the cadets from imposition, you are authorized to suspend the rule until further orders.

I have the honor, &c.

WILLIAM H. CRAWFORD.

Gen. JOSEPH G. SWIFT, New York.

UNITED STATES MILITARY ACADEMY,  
*West Point, May 22, 1816.*

The following branches of science and instruction shall be considered as comprising a complete course of education at the Military Academy at West Point, State of New York:

The English and French languages, and the review of the Latin and Greek languages, mathematics, military drawing, natural and experimental philosophy, including astronomy, engineering, geography, history, ethics, military instruction, and the sword exercises.

*English language.*—A course of English shall embrace English grammar and composition.

*French language.*—A course of French shall consist in pronouncing the language tolerably, and translating from French into English, and from English into French, with accuracy.

*Latin and Greek languages.*—A course of Latin and Greek shall embrace the review of the Latin and Greek authors usually taught in academies.

No cadet shall be compelled to study these languages who shall not have been taught them previous to his appointment.

*Mathematics.*—A complete course of mathematics shall embrace the following branches, viz: The nature and construction of logarithms and the use of the tables; algebra, to include the solution of cubic equations, with all the preceding rules; geometry, to include plane and solid geometry, also ratios and proportions, and the construction of geometrical problems; application of algebra to geometry; practical geometry on the ground; mensuration of planes and solids; plane trigonometry, with its application to surveying and measuring heights and distances; spherical trigonometry, with its application to the solution of spherical problems; the doctrine of infinite series; conic sections, with their application to military and other projectiles; fluxions, to be taught and studied at the option of the professor and student.

*Drawing.*—A complete course of drawing shall include the elementary drawing of figures; rules and practice of perspective plans and profiles of permanent fortifications; of every kind of field works; and, also, topographical plans.

*Philosophy.*—A complete course of philosophy shall embrace the following branches, viz: The principles of mechanics, with their general application; hydrostatics, hydraulics, pneumatics, optics; the elements of chemistry, electricity, magnetism, and astronomy.

*Engineering.*—A complete course of engineering shall embrace the following branches, viz: Military and civil architecture; permanent and

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field fortification; field works, generally; rules for the labor, time, and materials necessary for the construction of different kinds of works; also, rules for the construction of all the appendages necessary in field works; the construction of mines and fougasses, and the different modes of attacking and defending fortified places; also, castrametation.

**Geography.**—A complete course of geography shall embrace the solution of the several problems of the spheres, usually prefixed to the systems of geography, by means of the globe. A knowledge of the grand divisions of the earth; of the extent, boundaries, and relative situations of the several countries situated in each of these grand divisions; embracing, likewise, a knowledge of their natural productions, commerce, manufactures, government, naval and military strength, relative importance, and the use of the maps, &c.

**History.**—A complete course of history shall embrace a course of universal history; the history of America generally; the history of the American Revolutionary war, &c.; the history of the United States, or such particular States as the professor in that department shall judge proper.

**Ethics.**—A course of ethics shall include the elements of moral science, also of natural and political law.

**Military instruction.**—A complete course of military instruction shall embrace a general course of tactics; a knowledge of infantry duty, to commence with the elementary drill of the soldier, and to include the discipline and police of the battalion and platoon in all their parts; a knowledge of artillery duty, including the artillery drill; practical gunnery; and, also, all the performance of all the regular duties of the camp.

**Sword exercise.**—Under the sword exercise shall be included the broad sword exercise, and the cut and thrust, or small sword, either or both, according to circumstances.

**Assignment of duties.**—Each professor and instructor shall be limited in the discharge of his official duties to his own department, and not to interfere with any other department. Each professor and teacher, at the head of a separate department, shall be the judge of the proper mode of conveying instruction in his own department, and shall be held responsible for the correctness of this mode.

**Division of time.**—To complete the preceding course of studies will require four years. The branches to be pursued, and the course to be completed in each year, shall be as follows:

**First year.**—The course of the first year shall embrace English grammar and composition, and the French language, logarithms, algebra, and plane geometry, to include ratios and proportions.

**Second year.**—The course of the second year shall embrace a continuation of the French language; the geometry of planes and solids, and the construction of geometrical problems; the

application of algebra to geometry, and the mensuration of planes and solids; plane and spherical trigonometry, with their applications; conic sections; practical geometry and drawing.

**Third year.**—A course for the third year shall embrace natural and experimental philosophy, astronomy, engineering, and drawing continued.

**Fourth year.**—A course for the fourth year shall embrace geography, history, and ethics, the review of the English grammar, and of the Latin and Greek languages; also, a general review of the most important branches in each of the departments.

**Rules for classification.**—The cadets at the Military Academy shall constitute four classes. All the cadets who are admitted as members of the academy in each year shall constitute the first lower class. If, however, at the general examination next ensuing the time of admission, it shall appear that any cadet is sufficiently advanced in his studies, he may be admitted into the next higher class. On the contrary, if, at either of the general examinations, any cadet shall be found unqualified to proceed with his class, he shall be put back into the next lower class. No intermediate classes will, in any case, be allowed.

**Qualifications necessary for admission.**—Each cadet, previous to his being admitted a member of the Military Academy, must be able to read distinctly and pronounce correctly; to write a fair legible hand; and to perform with facility and accuracy the various operations of the ground rules of arithmetic, both simple and compound; of the rules of reduction of single and compound proportion, and also of vulgar and decimal fractions.

**Promiscuous regulations.**—1st. Every cadet, when he shall have completed the foregoing course of studies, shall be entitled to his diploma signed by the academic staff, agreeably to law and existing regulations.

2d. The military instruction of the cadet shall be under the immediate direction of the superintendent of the academy, and shall be attended to at such times as will interfere the least with their other academic duties.

3d. The particular course of studies to be completed by the classes, between the general examinations in each year, shall be determined by the superintendent and academic staff, in such manner as experience shall point out to be the most conducive to the interests of the institution.

4th. Any cadet who shall have been reduced to a lower class, and shall, upon a second examination, be found unqualified to advance with this class to the next higher grade, shall, unless he shall have been prevented from attending to his studies by sickness, necessary absence, or some other evident necessity, be reported to the Secretary of the Department of War by the academic staff, stating the branches of science in which he is most deficient, those in which he has made the greatest proficiency, as well as the general inclination, temper, and habits, which appear to predominate in his actions; and especially whether

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his dominant propensities impel him to the profession of arms. Upon this report he shall be dismissed, or retained, at the will of the President.

5th. The superintendent of the academy and the academic staff shall be at liberty to propose to the Secretary of War such alterations and amendments to the foregoing course of studies as they shall, at any time, conjointly deem necessary for the good of the institution; the whole, or a majority of them, agreeing to such alterations and amendments.

6th. Should it be found, by experience, that too large a portion of study or instruction is assigned in the preceding course of studies to any particular year, the superintendent and academic staff conjointly shall be at liberty to transfer, from the course of one year to that of another, such particular portions of study or instruction as may appear necessary to produce an equality; the whole, or a majority of them, agreeing to such transfer.

The foregoing course of studies and instructions is respectfully submitted to the honorable Secretary of War.

*Rules with respect to the promotion of cadets of the United States Military Academy.*

1. That, in the governmental promotion of the cadets, the lineal rank of each graduating class shall be established in conformity to the principle of general merit, as ascertained by a competent board of examiners.

2. That the distribution of cadets to the several corps of the army at the time of promotion, shall be made according to their particular talents and qualifications ascertained in like manner; provided, that this distribution be allowed, in no instance, to interfere with the principle of rank according to general merit.

3. No cadet to be promoted from the academy until he shall have completed his course of studies at the same, and received the diploma of the academic staff to that effect.

4. No cadet who shall resign his warrant, or otherwise be separated from the academy, before the completion of his studies, shall, on any account, receive an appointment in the Army of the United States, until after the promotion of the class to which he belonged; nor then, if such appointment interfere in the smallest degree with the rank of any member of that class.

5. No cadet who shall be dismissed the institution, or compelled to resign on account of idleness, neglect of duty, or any species of bad conduct, shall be eligible to any office or post in the Army of the United States, until at least five years after the promotion of the class to which he belonged.

**ROADS AND CANALS.—REPORT OF THE SECRETARY OF WAR.**

[Communicated to the House, January 14, 1819.]

DEPARTMENT OF WAR, Jan. 7, 1819.

SIR: In compliance with a resolution of the House of Representatives of the 4th of April,

1818, instructing the Secretary of War to report to that House, at their next session, "a plan for the application of such means as are within the power of Congress for the purpose of opening and constructing such roads and canals as may deserve and require the aid of Government, with a view to military operations in time of war; the transportation of munitions of war; and also a statement of the works of the nature above-mentioned which have been commenced, the progress which has been made, and the means and prospect of their completion; together with such information as, in the opinion of the Secretary, shall be material in relation to the objects of the resolution," I have the honor to make the following report:

A judicious system of roads and canals, constructed for the convenience of commerce and the transportation of the mail only, without any reference to military operations, is itself among the most efficient means for "the more complete defence of the United States." Without adverting to the fact, that the roads and canals which such a system would require are, with few exceptions, precisely those which would be required for the operations of war, such a system, by consolidating our Union, increasing our wealth and fiscal capacity, would add greatly to our resources in war. It is in a state of war when a nation is compelled to put all of its resources, in men, money, skill, and devotion to country, into requisition, that its Government realizes, in its security, the beneficial effects from a people made prosperous and happy by a wise direction of its resources in peace. But I forbear to pursue this subject, though so interesting, and which, the further it is pursued, will the more clearly establish the intimate connexion between the defence and safety of the country and its improvement and prosperity, as I do not conceive that it constitutes the immediate object of this report.

There is no country to which a good system of military roads and canals is more indispensable than to the United States. As great as our military capacity is, when compared with the number of our people, yet, when considered in relation to the vast extent of our country, it is very small; and, if so great an extent of territory renders it very difficult to conquer us, as has been frequently observed, it ought not to be forgotten that it renders it no less difficult for the Government to afford protection to every portion of the community. In the very nature of things, the difficulty of protecting every part, so long as our population bears so small a proportion to the extent of the country, cannot be entirely overcome; but it may be very greatly diminished by a good system of military roads and canals. The necessity of such a system is still more apparent if we take into consideration the character of our political maxims and institutions. Opposed in principle to a large standing army, our main reliance for defence must be on the militia, to be called out frequently from a great distance, and under the pressure of an actual invasion. The

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experience of the late war amply proves, in the present state of our internal improvements, the delay, the uncertainty, the anxiety, and exhausting effects of such calls. The facts are too recent to require details, and the impression too deep to be soon forgotten. As it is the part of wisdom to profit by experience, so it is of the utmost importance to prevent a recurrence of a similar state of things, by the application of a portion of our means to the construction of such roads and canals as are required "with a view to military operations in time of war, the transportation of the munitions of war, and more complete defence of the United States."

In all questions of military preparation, three of our frontiers require special attention; the Eastern or Atlantic frontier; the Northern, or the Canadian frontier; and the Southern, or the frontier of the Gulf of Mexico. On the West and Northwest we are secure, except against Indian hostilities; and the only military preparations required in that quarter, are such as are necessary to keep the Indian tribes in awe, and to protect the frontier from their ravages. All of our great military efforts, growing out of a war with an European Power, must, for the present, be directed towards our Eastern, Northern, or Southern frontiers; and the roads and canals which will enable the Government to concentrate its means for defence, promptly and cheaply, on the vulnerable points of either of those frontiers, are those which in a military point of view, require the aid of Government. I propose to consider each of those frontiers separately, beginning with the Atlantic, which, in many respects, is the weakest and most exposed.

From the mouth of St. Croix to that of St. Marys, the two extremes of this frontier, is a distance, along the line of the coast and principal bays, without following their sinuosities, of about two thousand one hundred miles. On this line, including its navigable rivers and bays, are situated our most populous cities, the great depots of the wealth and commerce of the country. That portion of it which extends to the south of the Chesapeake has, with the exceptions of the cities and their immediate neighborhood, a sparse population, with a low marshy country, extending back from 100 to 150 miles. To the north of the Chesapeake, inclusive, it affords, everywhere, deep and bold navigable bays and rivers, which readily admit vessels of any size. Against a line so long, so weak, so exposed, and presenting such strong motives for depredations, hostilities the most harassing and exhausting may be carried on by a naval Power; and, should the subjugation of the country ever be attempted, it is probable that against this frontier, facing Europe, the seat of the great Powers of the world, the principal efforts would be turned. Thus circumstanced, it is the duty of the Government to render it as secure as possible. For much of this security we ought to look to a navy, and a judicious and strong system of fortifications; but not to the neglect of such roads and canals as will enable the Government to concentrate,

promptly and cheaply, at any point which may be menaced, the necessary force and means for defence.

To resist ordinary hostilities, having for their object the destruction of our towns and the exhaustion of our means, the force ought to be drawn from the country lying between the coasts and the sources of the principal rivers which discharge through it into the ocean; but, to resist greater efforts, aiming at conquest, should it ever be attempted, the force and resources of the whole community must be brought into resistance. To concentrate, then, a sufficient force, on any point of this frontier which may be invaded, troops must be marched, and munitions of war transported, either along the line of the coast, or from the interior of the Atlantic States to the coast, or, should the invading force be of such magnitude as to require it, from the Western States; and the roads and canals necessary for the defence of this frontier are those which will render these operations prompt, certain, and economical.

From the coast to the Alleghany mountains and the high land separating the streams which enter into the St. Lawrence from those of the Atlantic, in which the principal Atlantic rivers take their rise, the distance may be averaged at about 250 miles; and the whole extent, from the St. Marys to the St. Croix, is intersected, at short intervals, by large navigable rivers and the principal roads of this portion of our country, through which its great commercial operations are carried on. These, aided by the steamboats, now introduced on almost all of our great rivers, present great facilities to collect the militia from the interior, and to transport the necessary supplies and munitions of war.

Much undoubtedly remains to be done to perfect the roads and improve the navigation of the rivers; but this, for the most part, may be safely left to the States and the commercial cities particularly interested, as the appropriate objects of their care and exertions. The attention of both have recently been much turned towards these objects, and a few years will probably add much to facilitate the intercourse between the coast and the interior of the Atlantic States. Very different is the case with the great and important line of communication, extending along the coast, through the Atlantic States. No object of the kind is more important; and there is none to which State or individual capacity is more inadequate. It must be perfected by the General Government, or not perfected at all, at least for many years. No one or two States have a sufficient interest. It is immediately beneficial to more than half of the States of the Union, and, without the aid of the General Government, would require their co-operation. It is, at all times, a most important object to the nation; and, in a war with a naval Power, is almost indispensable to our military, commercial, and financial operations. It may, in a single view, be considered the great artery of the country; and, when the coasting trade is suspended by war, the vast

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intercourse between the North and South, which annually requires five hundred thousand tons of shipping, and which is necessary to the commerce, the agriculture, and manufactures of more than half of the Union, seeks this channel of communication. If it were thoroughly opened by land and water; if Louisiana were connected, by a durable and well finished road, with Maine; and Boston with Savannah, by a well established line of inland navigation, for which so many facilities are presented, more than half of the pressure of war would be removed. A country so vast in its means, and abounding, in its various latitudes, with almost all the products of the globe, is a world of itself; and, with that facility of intercourse, to perfect which, the disposable means of the country is adequate, would flourish and prosper under the pressure of a war with any Power. But, dropping this more elevated view, and considering the subject only as it regards "military operations in time of war, and the transportation of the munitions of war," what could contribute so much as this communication to the effectual and cheap defence of our Atlantic frontier? Take the line of inland navigation along the coast, the whole of which, it is estimated, could be completed, for sea vessels; by digging one hundred miles, and at the expense of \$3,000,000, the advantage which an enemy with a naval force now has, by rapidly moving along the coast, and harassing and exhausting the country, would be in a great measure lost to him. In fact, the capacity for rapid and prompt movements and concentration, would be, to the full, as much in our power. We would have, in most of the points of attack, a shorter line to move over, in order to concentrate our means; and, aided by steamboats, would have the capacity to pass it in a shorter time, and with greater certainty, than what an enemy, even with a naval superiority, would have, to attack us. Suppose the fleet of such an enemy should appear off the Capes of Delaware; before it could possibly approach and attack Philadelphia, information, by telegraphic communication, might be given to Baltimore and New York, and the forces stationed there thrown in for its relief. The same might take place if Baltimore or New York should be invaded; and, should an attack be made on any of our cities, the militia and regular forces, at a great distance along the coast, could, in a short time, be thrown in for its relief. By this speedy communication, the regular forces, with the militia of the cities and their neighborhood, would be sufficient to repel ordinary invasions, and would either prevent, or greatly diminish, the harassing calls upon the militia of the interior. If to these considerations we add the character of the southern position of the Atlantic frontier, so fatal to those whose constitutions are not inured to it, the value of this system of defence, by the regular troops and the militia accustomed to the climate, will be greatly enhanced. Should this line of inland navigation be constructed, to enjoy its benefits fully, it will be necessary to cover it against the naval operations of an enemy. It is thought that

this may be easily effected, to the south of the Chesapeake, by land and steam batteries. That bay is itself one of the most important links in this line of communication; and its defence against a naval force ought, if practicable, to be rendered complete. It was carefully surveyed, the last Summer, by skilful officers, for this purpose in part, and it is expected that their report will throw much light upon this important subject. Long Island Sound, another part of the line which is exposed, can be fully defended by a naval force only.

It remains, in relation to the defence of the Atlantic frontier, to consider the means of communication between it and the Western States, which require the aid of the Government. Most of the observations made relative to the increased strength and capacity of the country to bear up under the pressure of war, from the coastwise communication, are applicable in a high degree at present, and are daily becoming more so, to those with the Western States; and should a war for conquest ever be waged against us, an event not probable, but not to be laid entirely out of view, the roads and canals necessary to complete the communication with that portion of our country would be of the utmost importance.

The interest of commerce, and the spirit of rivalry between the great Atlantic cities, will do much to perfect the means of intercourse with the West. The most important lines of communication appear to be from Albany to the Lakes; from Philadelphia, Baltimore, Washington, and Richmond, to the Ohio river; and from Charleston and Augusta, to the Tennessee; all of which are now commanding the attention, in a greater or less degree, of the sections of the country immediately interested. But in such great undertakings, so interesting in every point of view to the whole Union, and which may ultimately become necessary to its defence, the expense ought not to fall wholly on the portions of the country more immediately interested. As the Government has a deep stake in them, and as the system of defence will not be perfect without their completion, it ought at least to bear a proportional share of the expense of their construction.

I proceed next to consider the roads and canals connected with the defence of our Northern frontier. That portion of it which extends to the east of Lake Champlain has not heretofore been the scene of extensive military operations; and I am not sufficiently acquainted with the nature of the country, to venture an opinion whether we may hereafter be called on to make considerable military efforts in that quarter. Without, then, designating any military improvements, as connected with this portion of our Northern frontier, I would suggest the propriety, should Congress approve of the plan for a military survey of the country to be hereafter proposed, to make a survey of it the duty of the engineers who may be designated for that purpose.

For the defence of the other part of this line of frontier, the most important objects are, a canal or water communication between Albany and



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Lake George, and Lake Ontario, and between Pittsburgh and Lake Erie. The two former have been commenced by the State of New York, and will, when completed, connected with the great inland navigation along the coast, enable the Government, at a moderate expense, and in a short time, to transport munitions of war, and to concentrate its troops from any portion of the Atlantic States, fresh and unexhausted by the fatigue of marching on the inland frontier of the State of New York. The road commenced, by order of the Executive, from Plattsburg to Sackett's Harbor, is essentially connected with military operations on this portion of the Northern frontier. A water communication from Pittsburg to Lake Erie, would greatly increase our power on the upper Lakes. The Alleghany river, by its main branch, is said to be navigable within seven miles of Lake Erie, and by French creek, within sixteen miles. Pittsburg is the great military depot of the country to the west of the Alleghany, and, if it were connected by a canal with Lake Erie, would furnish military supplies with facility to the upper lakes, as well as to the country watered by the Mississippi. If to these communications we add a road from Detroit to Ohio, which has already been commenced, and a canal from the Illinois river to Lake Michigan, which the growing population of the State of Illinois renders very important, all the facilities which would be essential "to carry on military operations in the time of war, and the transportation of the munitions of war" for the defence of the western portion of our Northern frontier, would be afforded.

It only remains to consider the system of roads and canals connected with the defence of our Southern frontier, or that on the Gulf of Mexico. For the defence of this portion of our country, though at present weak of itself, nature has done much. The bay of Mobile, and the entrance into the Mississippi through all of its channels, are highly capable of defence. A military survey has been made, and the necessary fortifications have been commenced, and will be in a few years completed. But the real strength of this frontier is the Mississippi, which is no less the cause of its security than that of its commerce and wealth. Its rapid stream, aided by the force of steam, can, in the hour of danger, concentrate at once an irresistible force. Made strong by this noble river, little remains to be done by roads and canals, for the defence of our Southern frontier. The continuation of the road along the Atlantic coast, from Milledgeville to New Orleans, and the completion of the road which has already been commenced from Tennessee river to the same place, with the inland navigation through the canal of Carondelet, Lake Pontchartrain, and the islands along the coast of Mobile, covered against the operations of a naval force, every facility required for the transportation of munitions of war, and movement and concentration of troops, to protect this distant and important frontier, would be afforded.

Such are the roads and canals which military operations in time of war, the transportation of

the munitions of war, and the more complete defence of the United States, require.

Many of the roads and canals which have been suggested, are no doubt of the first importance to the commerce, the manufactures, the agriculture, and political prosperity of the country; but are not, for that reason, less useful or necessary for military purposes. It is, in fact, one of the great advantages of our country, enjoying so many others, that, whether we regard its internal improvements in relation to military, civil, or political purposes, very nearly the same system, in all its parts, is required. The road or canal can scarcely be designated, which is highly useful for military operations, which is not equally required for the industry or political prosperity of the community. If those roads or canals had been pointed out, which are necessary for military purposes only, the list would have been small indeed. I have, therefore, presented all, without regarding the fact that they might be employed for other uses, which, in the event of war, would be necessary to give economy, certainty, and success to our military operations; and which, if they had been completed before the late war, would, by their saving in that single contest, in men, money, and reputation, have more than indemnified the country for the expense of their construction. I have not prepared an estimate of expenses, nor pointed out the particular routes for the roads or canals recommended, as I conceive that this can be ascertained with satisfaction only by able and skilful engineers, after a careful survey and examination.

I would, therefore, respectfully suggest, as the basis of the system, and the first measure in the "plan for the application of such means as are in the power of Congress," that Congress should direct such a survey and estimate to be made, and the result to be laid before them as soon as practicable. The expense would be inconsiderable; for, as the army can furnish able military and topographical engineers, it would be principally confined to the employment of one or more skilful civil engineers, to be associated with them. By their combined skill, an efficient system of military roads and canals would be presented in detail, accompanied with such estimates of expenses as may be relied on. Thus full and satisfactory information would be had; and though some time might be lost in the commencement of the system, it would be more than compensated by its assured efficiency when completed.

For the construction of the roads and canals, which Congress may choose to direct, the army, to a certain extent, may be brought in aid of the moneyed resources of the country. The propriety of employing the army on works of public utility cannot be doubted. Labor adds to its usefulness and health. A mere garrison life is equally hostile to its vigor and discipline. Both officers and men become the subjects of its deleterious effects. But when the vast extent of our country is compared with the extent of our military establishments, and taking into consideration the necessity of employing the soldiers on fortifications, bar-

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racks, and roads, connected with remote frontier posts, we ought not to be sanguine in the expectation of aid to be derived from the army in the construction of permanent military roads and canals, at a distance from the frontiers. When our military posts come to be extended up the Mississippi and Missouri, as far as is contemplated, the military frontier of the United States, not including sinuosities, and the coasts of navigable bays and lakes opening into our country, as was stated in a former report, will present a line of more than nine thousand miles, and, including them, of more than eleven thousand. Thinly scattered along so extensive a frontier, it will be impossible, I fear, without having some points exposed, to collect any considerable bodies in the interior of the country, to construct roads and canals.

As connected with this subject, I would respectfully suggest the propriety of making an adequate provision for the soldiers, while regularly and continually employed in constructing works of public utility. The present allowance is fifteen cents a day, which is considered sufficient in occasional fatigue duty, such as is now done at most of the posts; but if systematic employ, on permanent works, should be made the regular duty of the soldiers who can be spared for that purpose, a compensation, taking into the estimate the obligation of the Government to provide medical attendance and pensions to the deceased and disabled soldiers, not much short of the wages of daily labor ought to be granted to them. Without such provision, which is dictated by justice, an increase of desertion and difficulty in obtaining recruits ought to be expected. Among the leading inducements to enlist is the exemption from labor; and, if the life of a soldier should be equally subject to it as that of other citizens in the same grade, he will prefer, if the wages are much inferior, to labor for himself to laboring for the public. The pay of a soldier is sixty dollars per annum; and if he were allowed, when employed permanently on fatigue, twenty-five cents a day, and suppose him to be employed two hundred days in the year, his compensation, including his pay, would be \$110 per annum—a sum, it is thought, considerably short of the average wages of labor. If this sum should be allowed, the greater portion of it ought to be paid at the expiration of the term of enlistment. If fifteen cents a day were so reserved, and the soldier should be employed one thousand days in the five years for which he is enlisted, it would constitute a sum of one hundred and fifty dollars, to be paid at the expiration of his term, which ought, in the same manner as the bounty land, be made to depend on an honorable discharge. This would furnish an important hold on the fidelity of the soldier, and would be a powerful check to the great and growing crime of desertion. An honorable discharge is now worth but little to the soldier, and the consequence is, that desertions are more frequent with those enlisted since the war, than those who were then enlisted, and are entitled to the bounty in land on their honorable discharge. The

latter patiently awaits the expiration of his term of service, while the former frequently seizes the first favorable opportunity for desertion.

Should Congress think proper to commence a system of roads and canals for the "more complete defence of the United States," the disbursement of the sums appropriated for the purpose might be made by the Department of War, under direction of the President. Where incorporate companies are already formed, or the road or canal commenced under the superintendence of a State, it perhaps would be advisable to direct a subscription on the part of the United States, on such terms and conditions as might be thought proper. In other cases, and where the army cannot be made to execute it, the work ought to be done by contract, under the superintendence and inspection of officers of the engineer corps, to be detailed for that purpose. It is thus the Government will be able, it is thought, to construct upon terms at least as favorable as corporate companies. The system of constructing all public works, which admit of it, by contract, would be attended with important advantages. It has recently been adopted in the construction of fortifications, and it is expected will be attended with beneficial results. The principal works at Mobile and New Orleans have been contracted for on terms considerably under the estimates of the engineers. Such a system, extended to military roads and canals, combined with a careful inspection and superintendence by skilful engineers, will enable the Government to complete them with economy, durability, and despatch.

In the view which has been taken I have thought it improper, under the resolution of the House, to discuss the Constitutional question, or how far the system of internal improvements which has been presented may be carried into effect on the principle of our Government; and, therefore, the whole of the arguments which are used, and the measures proposed, must be considered as depending on the decision of that question.

The only military roads which have been commenced are from Plattsburg to Sackett's Harbor, through the Chateaugay country; from the southern boundary of the State of Tennessee, and crossing the Tennessee river near the Muscle Shoals, to Madisonville, Louisiana; and from Detroit to Fort Meigs, at the foot of the Rapids of the Miami of the Lakes. Documents marked A, B, C, show the progress which have been made. These roads have been commenced, and thus far completed by the labor of the soldiers, who, while they are so employed, receive fifteen cents per day, with an extra allowance of a gill of whiskey. The labor of the troops is the only means within the reach of the Department of completing these roads; and, as the troops are so employed, only when they are not engaged in active service, it is impossible to state, with accuracy, when the roads will be completed.

J. C. CALHOUN.

HON. HENRY CLAY,  
*Speaker of the House of Reps.*

*Report on Roads and Canals.*

## A.

HEADQUARTERS, BROWNSVILLE,  
December 6, 1818.

Sir: Your letter, covering a copy of one of the 11th of August, calling for a report of the labor performed on the road leading from Sackett's Harbor, through the Chateaugay country, is before me.

My letter of the 29th of November will inform you what has been done, but I fear will not exhibit the progress of this work to the extent you have expected. It may, therefore, be proper to state, in this place, that when the President, in the Autumn of 1817, directed the road in question to be opened and improved, I did not understand that the second regiment were to be ordered from the duty they were then upon. This regiment, at the time referred to, were employed, enclosing with pickets the public ground at Sackett's Harbor, and that duty occupied them the remainder of the season. Expecting the troops at the Harbor would have been employed in completing the barracks at that place this year, they were not put upon the road, but allowed to be engaged in improving the public grounds for gardens; and, as these grounds were new, it required much labor to put them in good condition.

These causes, and the reasons assigned in my letters from this place and Plattsburg, produced the delay that has occurred in putting Colonel Brady's command upon the road, and, if your letter of the 11th of August had not been received upon my return to this place, I fear that this work would not yet have commenced.

I pray you to believe, that I regret the delay, and I beg you to see good cause for it in the reasons I have endeavored to assign.

It is due to the command of Colonel Brady and Colonel Atkinson to say, that they have discovered not only a becoming cheerfulness in obeying the orders received for perfecting the Plattsburg and Sackett's Harbor road, but much zeal in the performance of this duty, and, if these regiments are continued upon this important work the next season, more than double the length of way will be completed, that has been passed the last and the present year.

With respect, I have the honor to be, &c.,  
JAC. BROWN.

Hon. J. C. CALHOUN,  
*Secretary of War.*

## B.

HEADQ'RS, DIVISION OF THE SOUTH,  
ADJUTANT GENERAL'S OFFICE,  
Nashville, Sept. 19, 1818.

SIR: On the eve of setting out for the Chickasaw Territory, I deem it necessary to inform you that no reports have been received as yet, of a particular character, in relation to the military road now opening from Columbia, Tennessee, to Madisonville; but I am enabled to inform you, officially, that fifty miles have been completed by

the troops on the lower part of the road, making many causeways and bridges of the most durable materials; and the detachment on this end have progressed about forty miles south of the Tennessee river, making in like manner many bridges and causeways.

It is considered that the most laborious part of the road has been completed; and, from every information, it has been done in the best manner. An increase of men has been recently afforded to the detachment south of Tennessee river, which enables it to progress with much greater facility.

Should I receive minute reports shortly, I shall communicate their contents without delay.

And have the honor to be, &c.,  
ROBERT BUTLER,  
*Adjutant General.*

Hon. J. C. CALHOUN,  
*Secretary of War.*

## C.

HEADQUARTERS, DETROIT,  
November 2, 1819.

SIR: I have the honor to report that the military way, directed to be opened from this place to the Rapids of the Miami, has progressed as far as the Eight Mile Creek, that is, within eight miles of the Rapids, making in all a distance of seventy miles. The road is truly a magnificent one, being eighty feet wide, cleared of all the logs and underbush, every low place causewayed, and all the creeks and rivers requiring it bridged in a substantial manner. The number of causeways exceeds sixty, and the bridges are of considerable length. The one on which the troops are now employed is four hundred and fifty feet in length, constructed of strong oak framed work. It was found impossible to complete the road to the Rapids this season, on account of the time and labor required in throwing bridges over the larger streams: it was also deemed more essential to complete the bridges, than cut the road this season to the Rapids, as the road would be useless without the means of crossing the large streams.

The officers and soldiers who have been employed in this service deserve much credit for the zeal and perseverance they have displayed on this occasion. The work they have performed has proved highly beneficial, both to the people of the country and of the Government. Besides greatly adding to the defence and strength of this frontier, the road has been the means of developing the richness of the public lands in this Territory, and greatly augmenting their value.

As soon as Major Anderson, topographical engineer, can complete the survey of the road, a more minute and particular description of the work will be forwarded.

I have the honor to be, &c.,  
ALEX. MACOMB.

Hon. J. C. CALHOUN,  
*Secretary of War.*

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## INDIAN TRADE.

*Report from the War Department.*

DEPARTMENT OF WAR,  
December 5, 1818.

SIR: In compliance with a resolution of the House of Representatives, of the 4th of April, 1818, directing the Secretary of War to prepare and report, at their next session, "a system providing for the abolition of the existing Indian trade establishments of the United States, and providing for the opening of the trade with the Indians to individuals, under suitable regulations," I have the honor to make the following report:

The nations of Indians who inhabit this portion of our continent were, on its first discovery, in a state of the most perfect commercial independence. Their knowledge of the useful arts was, indeed, very limited; but it was commensurate with their wants and desires. With their rude implements of husbandry, their hook, and bow, in the construction of which they were well instructed, they drew a scanty, but for them a sufficient supply from the soil, the water, and the forest. A great change has since taken place, such as appears to be inevitable, by a fixed law of nature, in the intercourse between a civilized and savage people. Helplessness has succeeded independence. While their wants have been greatly multiplied and enlarged, by their intercourse with their more civilized neighbors, their knowledge even of their former rude arts has been lost, without acquiring those which are necessary in their new condition. The manufacture of the axe and the hoe, by which they now clear and cultivate the soil, and the gun and ammunition, by which they take their game, are far above their skill; and with the exhaustion of the present stock, without a new supply, they would be reduced to extreme want. On trade, then, with those from whom they can draw these and other supplies, they are wholly dependent. We have the exclusive right to trade with those within our limits; and cut off, as the southern tribes are, by our acquisition in the late war, from intercourse with foreigners on the side of the Gulf of Mexico, we have the means, by a proper extension of our posts, on the Lakes, the Mississippi, and the Missouri, (to effect which measures have already been taken,) to enforce effectually, without much additional expense, this important right. The period seems, then, to have arrived, to give to our control over the Indians, through an exclusive supply of their wants, the greatest efficiency; and to promote theirs and our interest, by a judicious system of trade, fairly and justly directed.

A similar view of this branch of our trade seems to have been taken at an early period by our Government. It directed its attention to this interesting and important subject, as early as the year 1775, when a committee was appointed by Congress to devise a plan for carrying on trade with the Indians. In the next year a very con-

siderable purchase of goods was directed to be made for the Indian trade; and trade with them, except under license or bond, was strictly prohibited. The subject was frequently acted on during the Confederation; but no systematic effort was made to regulate it till 1786, when an ordinance was passed, dividing the Indian department into two districts, and appointing a superintendent, with a deputy to each. It was made their duty to execute such regulations as Congress might establish in relation to Indian affairs; to correspond with the Secretary of War, through whom their communications were directed to be made to Congress; to obey the instructions of the War Department; and to grant license to trade with Indians. This ordinance directed that no license should be granted to foreigners, and only to citizens whose good moral character should be certified by the Governor of a State, under the seal of the State, and that bonds should be given to conform to established regulations. Licenses were granted, to continue in force for one year only, and upon the payment of fifty dollars. To trade without license incurred a penalty of five hundred dollars, and forfeiture of goods. The superintendents and their deputies were prohibited from engaging in trade.

The change in the form of the Government, a few years after the passing of this ordinance, and the debility into which public affairs fell, about the termination of the Confederation, prevented this judicious system from being carried into effect.

Under the present Constitution, the subject of Indian trade attracted the attention of Congress, as early as the year 1790. The system of trade by licenses was retained: they were directed to be granted for two years, by persons to be appointed by the President, to applicants of good character, who gave bonds to conform to regulations; and trading without license was subjected to a forfeiture of merchandise. The act contains no prohibitions to foreigners, and requires nothing to be paid for the licenses. In the years 1793 and 1796, acts were passed, very similar in their provisions to the one just recited; and in the year 1802, an act repealing former acts, and which still continues in force, was passed. It inflicts a fine of one hundred dollars, and imprisonment not exceeding thirty days, in addition to the forfeiture of goods, for trading without license; and directs licenses to be granted on bond, with sufficient security to conform to law and regulations, without making a good character or citizenship a requisite.

By an act of 1816, the last passed on this subject, foreigners are prohibited from trading with the Indians, except permitted by the President, and under such regulations as he should establish. Instructions have been given under this act to prohibit foreigners from passing into the Indian country, except as boatmen, and, under certain conditions, as interpreters.

The system of trade by public factors, now proposed to be abolished, commenced in the year 1796; but without superseding the original mode

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of carrying on the trade by license. The President was authorized to establish trading-houses, and to appoint an agent to each house to carry on, as the act states, "a liberal trade with the Indians." The act appropriated \$150,000, as the capital of this trade, and the additional sum of \$8,000 annually for the payment of agents and clerks; and directed the trade to be carried on, so as not to diminish the capital. It was limited to two years; but was, by a subsequent act, continued in force till 1806. A Superintendent of Indians was then appointed, and the capital increased to \$260,000, and \$13,000 were annually appropriated for the payment of superintendent, agents, and clerks. This act was limited to three years; but afterwards continued in force till 1811. The capital was then increased to three hundred thousand dollars, with an annual appropriation of \$19,250 for the payment of superintendent, agents, and clerks. It was limited to three years, but has been extended by subsequent acts to the first of March next.

The capital at present is distributed among eight trading-houses, or factories, established at the following places: Fort Mitchell; the Chickasaw Bluffs; Fort Confederation, on the Tombigbee; Fort Osage, on the Missouri; Prairie du Chien, on the Mississippi; Sulphur Fork, on Red river; Green Bay; and Chicago.

Such is the rise, progress, and present condition of our Indian trade. It was commenced and has been continued from motives both of prudence and humanity; and though it may not have fully realized the expectations of its friends, it has no doubt produced beneficial effects. If wars have not been entirely prevented by it, they probably, without it, would have been more frequent; and, if the Indians have made but little advances in civilization, they probably without it would have made less. If greater effects have not resulted, it is to be attributed not to a want of dependence on the part of the Indians on commercial supplies, but to defects in the system itself, or in its administration. Scarcely any attempt has been made till lately to exclude foreigners, and the granting of licenses has not been subject to those checks which are necessary to give to it the most salutary effects.

Should it be thought unadvisable to continue the present trading system by factories, by permitting the act to expire, by its limitation, on the first of March next, it will then of course terminate. In winding up its concerns, two points are to be regarded: to sustain as little loss as possible, and to withdraw from the trade gradually, in order that the capital employed may be supplied from other sources. To effect both of these objects, I would suggest, that so much of the act of 1811 as authorizes the appointment of a superintendent and factors, be continued in force for one year; and that they be authorized to make sales, as heretofore, of the goods and effects on hand, and those which may be acquired from the Indians.

The Superintendent of Indian trade should also be authorized and directed to exhibit at his office,

for inspection, an inventory of the stock in trade, with the property attached to the respective factories; and he should be directed to sell the same on the best terms offered, provided the sales can be effected at cost and charges. It would be proper to allow considerable credit upon approved bonds and security; and the President ought to be empowered to annex, as the condition of the sale, if he should think it advisable to sell the goods to the Indians, at the place at which the factory is established, a provision that the sales be effected within the period of one year. The factory at Fort Clark, being established by a treaty with the Great and Little Osages in the year 1808, must be continued by the Government, or sold out, subject to the condition of being continued so long as the Indians may desire it. It would perhaps be advisable to direct a new treaty, rescinding, on suitable compensation, the stipulation referred to.

The establishment would by these means terminate gradually, without the hazard of any considerable losses.

To provide for opening the trade to individuals, under suitable regulations, is a task of much greater difficulty. The vast extent of the country inhabited by the Indians; and the numbers and variety of the tribes, render it impossible to apply, with propriety, any uniform system to the whole. The various tribes, for the purpose of trade, may, however, be comprehended in two classes. Those in our immediate neighborhood, surrounded by our settlements and our military posts, and who, from long intercourse with us, have become partially civilized; and those more remote, who still retain their original character and customs. In the former are comprehended the four southern tribes, the Osages and the small tribes, immediately west of the Mississippi, those within the limits of Illinois, Indiana, Ohio, and that part of the Michigan Territory east of Lake Michigan. The latter comprehends all the tribes without those limits. I propose to consider the system of trade best calculated for each division, beginning with the former.

After giving the subject that full consideration which its importance merits, it appears to me that the provisions of the ordinance of 1786, with a few additions and modifications, particularly in the administrative part, so as to adjust it to our present form of Government, are, for this division of our Indian trade, the best that can be devised. The provisions of the acts now in force, in relation to licenses, are not as well guarded or as efficient as those of the ordinance referred to. The introduction of the factories seems to have relaxed the attention of Government to the system of trade under license. I would then propose to assume the provisions of the ordinance referred to, as the basis of a system to open the trade with the contiguous tribes of Indians to individual enterprise. Instead, however, of appointing two superintendents, I would propose a Superintendent of Indian affairs to be attached to the War Department, with a salary of \$3,000 per annum; the superintendent to be under the

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control of the Secretary of War, and to be charged, subject to such regulations as the President may prescribe, with the correspondence, superintendence, and general management of Indian affairs; and to be authorized, with the approbation of the Secretary of War, to grant licenses to trade with the Indians. Licenses to be granted to citizens of good moral character, and to continue in force till revoked. A sum not less than one hundred dollars, nor more than five hundred dollars, to be determined under regulations to be prescribed by the President, to be paid, for the privilege of using it, at the time of granting the license, and annually during its continuance; and bonds with sufficient security to be taken, to conform to law and regulations. Licenses to be revoked by the President whenever he may judge proper. To trade without license to subject to a fine not exceeding one thousand dollars, and imprisonment not to exceed six months, with a forfeiture of the goods. Licenses to be granted to trade at specified places, to be selected by the applicants, and not to be changed without the consent of the superintendent. All peddling and sales of spirituous liquors to be strictly prohibited. Each trading-house, or establishment, to require a separate license; and books to be kept at the establishment, in which the prices of the goods sold, and the articles purchased, should be regularly and fairly entered, and to be subject at all times to the inspector of the Indian agent, or such person as the superintendent may appoint.

The reasons for most of these provisions are so obvious as to require no illustration. They will all be passed over, accordingly, without observation, except the provision which requires the payment of an annual sum for the use of license, and that which requires the trading establishment to be fixed. The former provision is taken from the ordinance of 1786, which directed licenses to be granted for one year only, and on payment of fifty dollars to the superintendent, for the use of the United States; a sum nearly equal to that now proposed, if the value of money at that time be taken into consideration.

But it will probably be objected, that it is our interest, and, as we propose to monopolize their trade, our duty, too, to furnish the Indians with goods on as moderate terms as possible; and that the sum to be paid for a license, by acting as a duty on the goods sold under it, will tend to enhance their price. In answer to which, it may be justly observed, that it is not a matter of so much importance that they should obtain their supplies for a few cents more or less, as that the trade should, as far as practicable, be put effectually under the control of the Government, in order that they may be protected against the fraud and the violence to which their ignorance and weakness would, without such protection, expose them. It is this very ignorance and weakness which render it necessary for the Government to interfere; and if such interference is proper at all, it ought to be rendered effectual. Such will be the tendency of this provision. Its first and obvious effects will be to diminish more certain-

ly, and with less injurious effect, than any other provision which can be devised, the number of traders; and to increase the amount of capital which each would employ. The profit of a small capital of a few hundred dollars would scarcely pay for the license; while that on a large one would not be much diminished by it. Both of these effects, the diminution of the number of traders and the increase of the capital, would add greatly to the control of the Government over the trade. It would be almost impossible to inspect the conduct, and, consequently, control the actions of the multitude of traders, with small capitals, diffused over the Indian country, and settled at remote and obscure places. The greatest vigilance, on the part of the superintendent and his agents, would be unequal to the task. By diminishing the number, and bringing each more permanently before the view of the Government, a due inspection and superintendence becomes practicable. Again: what control can the Government have over the conduct of a trader with a capital of a few hundred dollars only? Suppose he should violate the express injunctions of law and regulations, what serious loss would he sustain by the revocation of his license, or by the putting his bond in suit? To him it would be nothing to wind up his business and give his capital another direction; and, as to the bond, in such distant and obscure transactions, he might pretty safely calculate on escaping its penalty. Very different would be the case with the trader of a large capital. To revoke his license would be a serious evil, which must subject him to certain loss; and, should he break the conditions of his bond, he would be much more in danger of feeling its penalty. The control of the Government would not only be greater over such traders, but, what is of equal importance, their influence with the Indians would have a more salutary direction. A war between them and us would, in all cases, be injurious, and, in many cases, would be ruinous to the trader of a large capital; but not so with one of small capital; a single profitable speculation may be of more importance to him than the continuance of peace. From the effects of war he can as easily escape as from the revocation of his license, or the penalty of his bond. Let the character of the former be what it may, he must, from interest, be the advocate of peace, and the influence of his own government; while the latter, unless influenced by virtuous motives, would feel in either but little interest.

From the nature of the trade, the more it can be concentrated, provided there is reasonable competition, the better it will be for the Indians and ourselves. The very opposite, it is true, would be the fact, if they had the capacity and intelligence to take care of their own interest, without our protection; but, situated as they are, indefinite competition would be no less injurious to them than to our citizens; and such appear to be their sentiments. The Chickasaws, in a late treaty, complained of the injury which they had sustained from pedlars and small traders; and they had a stipulation inserted against the granting of

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any license trade with their nation, as the only effectual means which suggested itself to prevent it.

The reasons for fixing the trading establishments are no less strong. By rendering them stationary, and compelling the proprietors to keep books, containing regular entries of all their sales and purchases, important checks will be presented to prevent fraud and exorbitant charges. It will also strongly tend to prevent collision between the traders, and, consequently, the creation of parties among the Indians, for or against particular traders; a state of things unfriendly to their interest, and dangerous to the peace of the frontier. Besides, the trading establishments being fixed, as they will be, in the most advantageous positions, each will, in time, become the nucleus of Indian settlements, which, by giving greater density and steadiness to their population, will tend to introduce a division of real property, and thus hasten their ultimate civilization.

Such are the provisions under which the trade with those tribes of Indians in our immediate neighborhood may with safety and advantage be opened to individual enterprise. With a vigilant administration, it will produce results equally salutary to the Indians and ourselves. In fact, the knowledge of the use of money, and the prices of most of the ordinary articles of trade, is so far advanced among them, as to guard them, to a considerable extent, against mere fraud and imposition; and, with the control which the Government may exercise over the trade with them, they would generally receive their supplies on fair and moderate terms. The system is not less calculated to secure peace. The regular traders, who have paid for the use of their licenses, will be the most active to prevent vexatious peddling and retailing of spirituous liquors, which are the bane of the frontier. They will, besides, become the most active promoters of industry, for the almost total destruction of game has rendered the amount of peltries and furs of little value in this branch of Indian trade, and the capacity of paying for the goods purchased must, consequently, in a great measure, depend on the product of the soil. In fact, the neighboring tribes are becoming daily less warlike, and more helpless and dependent on us through their numerous wants, and they are rendered still more pacific by the fear of forfeiting their lands and annuities. They have, in a great measure, ceased to be an object of terror, and have become that of commiseration. The time seems to have arrived, when our policy towards them should undergo an important change. They neither are in fact, nor ought to be, considered as independent nations. Our views of their interest, and not their own, ought to govern them. By a proper combination of force and persuasion, of punishments and rewards, they ought to be brought within the pales of law and civilization. Left to themselves, they will never reach that desirable condition. Before the slow operation of reason and experience can convince them of its superior advantages, they must be overwhelmed by the mighty torrent of our popu-

lation. Such small bodies, with savage customs and character, cannot, and ought not, to be permitted to exist in an independent condition in the midst of civilized society. Our laws and manners ought to supersede their present savage manners and customs. Beginning with those most advanced in civilization, and surrounded by our people, they ought to be made to contract their settlements within reasonable bounds, with a distinct understanding, that the United States intended to make no further acquisition of land from them, and that the settlements reserved are intended for their permanent home. The land ought to be divided among families, and the idea of individual property in the soil carefully inculcated. Their annuities would constitute an ample school fund, and education, comprehending as well the common arts of life, as reading, writing, and arithmetic, ought not to be left discretionary with the parents. Those who might not choose to submit, ought to be permitted and aided in forming new settlements at a distance from ours. When sufficiently advanced in civilization, they would be permitted to participate in such civil and political rights as the respective States within whose limits they are situated might safely extend to them. It is only by causing our opinion of their interest to prevail, that they can be civilized, and saved from extinction. Under the present policy they are continually decreasing and degenerating, notwithstanding the Government has, under all its administrations, been actuated by the most sincere desire to promote their happiness and civilization. The fault has been, not in the want of zeal, but in the mode in which it has been attempted to effect these desirable objects. The Indians are not so situated as to leave it to time and experience to effect their civilization. By selecting prudently the occasion for the change, by establishing a few essential regulations, and by appointing persons to administer them fairly and honestly, our efforts could scarcely fail of success. Nor ought it to be feared that the power would be abused on our part, for, in addition to the dictates of benevolence, we have a strong interest in their civilization. The enmity even of the frontier settlers towards them, is caused principally by the imperfections of the present system; and, under the one which I have suggested, it will greatly abate if not entirely subside. The natural humanity and generosity of the American character would no longer be weakened by the disorders and savage cruelty to which our frontiers are now exposed. A deep conviction of the importance of the subject, and a strong desire to arrest the current of events which, if permitted to flow in their present channel, must end in the annihilation of those who were once the proprietors of this prosperous country, must be my apology for this digression.

It remains to consider in what manner our trade can be most successfully prosecuted with the numerous Indian tribes who occupy the vast region extending west to the Pacific Ocean. It is obvious that the system proposed for the partially civilized tribes, bordering on our settle-

*Trade with the Indians.*

ments, would prove altogether inadequate to this branch of our Indian trade. It will require a system of far more energy to effect the great objects which ought to be pursued through it. To establish a decided control over the numerous and savage tribes within these vast limits, and to give to our trade with them its utmost extension, are deemed to be objects of great national importance. It is believed, that within our limits, along the range of the Rocky Mountains, quite to the Mexican frontier, is the best region for furs and peltries on this continent. With proper efforts the whole of this valuable trade, extending quite across to the great Western Ocean, would, in a few years, be exclusively in our possession. To produce these desirable results, foreign adventurers, whose influence must at all times be hostile to our interests, and dangerous to our peace, must be excluded. With this view, and to protect our own trade, means have been taken to extend our military posts on the Mississippi and Missouri. Whatever character our trade in that quarter may assume, the extension of our posts, as contemplated, will be indispensable to its enlarged and successful prosecution; but it is believed that with all the advantages which they will afford, unless the trade be properly and efficiently organized, we shall not be able to compete, with entire success, with the British companies on the North, nor to acquire that decided control over the Indians, which is indispensable to its complete success.

In order to have just ideas on this subject, it is necessary to take into consideration not only the vast extent and remoteness of the region, over which it is proposed to extend our trade, but the character of the numerous tribes who inhabit it. They are all more or less migratory; in the Summer moving towards the North, and in the Winter to the South, in pursuit of the buffalo, and other game. They are thus, in the Summer, brought into the neighborhood of the British establishment to the north of our limits, where, notwithstanding our military posts and the advantage of our position, much of the trade and influence over these fierce and warlike tribes will centre, unless our means of carrying it on should be as well organized and efficient as theirs. The difficulty, though of an opposite kind, is no less considerable on the Southern frontier of this portion of our country. The line between us and the Spanish possessions in Mexico, is, in its whole extent, a subject of discussion; and, even should it be adjusted, will probably, to a considerable extent, be without natural and visible boundaries. To a trade thus situated, extending over so vast a region, inhabited by numerous tribes not less warlike than savage, with the competition of powerful and long established companies on one side, and danger of collision on the other, the unorganized efforts of individuals, always with jarring, and frequently with opposing interests, appear to be wholly inadequate to its successful, or safe prosecution. The rivalry of trade, which, in well regulated communities, gives the greatest prosperity to commerce, would,

in these distant regions, beyond the control of law, or superior authority, among fierce and ignorant savages, lead to the most fatal consequences. Each trader, or association of traders, would endeavor to monopolize the trade within certain limits, and would exert their cunning and influence to render the savages their partisans, and the enemies of their rivals in trade. Among a people at once so fierce and so easily duped, the result may be readily anticipated. A state of disorder and violence would universally prevail, equally unfortunate to the Indians and ourselves; and which would strongly tend to turn the trade, and with it the influence over the Indians, to the well-organized foreign fur companies near our limits.

If these observations are correct; if the uncombined efforts of individuals are inadequate to a successful competition with the British fur companies; if they will endanger our peace with our Southern neighbors, and lead to fierce and dangerous rivalry among themselves, it only remains to consider, whether a mode can be devised of carrying on this branch of our Indian trade, which will obviate these evils, and accomplish the desirable objects of giving the greatest extension to it, accompanied with the most efficient control over the Indians themselves.

The united influence and combined efforts of the fur companies referred to, can be met successfully, it is believed, only by an equal concentration of influence, and efforts on our part; the jealous rivalry of independent traders, with its fatal consequences, can be obviated only by removing the diversity of interest by which it would be excited, and the danger of collision, on our southern limits, by subjecting the trade completely to the will and control of the Government. The mode, then, which I would propose, would be to vest the trade in a company with sufficient capital; to be divided into shares of one hundred dollars each; and to be limited to the term of twenty years; to pay an annual tax on its subscribed capital, for the privilege of exclusive trade, and to be subject, in like manner, as private traders, to such rules and regulations as may be prescribed. It is thus that most of the evils to be apprehended by leaving the trade open to the competition of private adventurers would, it is believed, be avoided. The efforts of the company, undisturbed by rival interests, would be directed to establish its control over the various tribes of Indians—to exclude foreign adventurers, and to give the greatest degree of profit to its trade. The success of such a company, properly conducted, scarcely admits of a doubt. Our position in regard to this trade; the facility which the navigation of our great and numerous rivers in that quarter would afford; and the protection from our military posts, would speedily destroy all foreign competition, and would, in a few years, push our trade to the Pacific Ocean. The most profitable fur and peltry trade in the world would be ours, accompanied with a decided influence over the numerous and warlike tribes inhabiting those extensive regions. The mere ob-



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jection that it would create a monopoly ought not to outweigh so many advantages. The trade with the Indians has never been opened without restrictions to our citizens. Licenses from the Government have at all times been required, and the Government has itself, through its factories, to a considerable extent, monopolized the trade; and, by an extension of its capital only, might engross the whole of it. All of these provisions, however necessary in the Indian trade, would be absurd in any other branch of our commerce. Besides, the profit of the trade with the Indians has, at all times, been confined to a few individuals; and it is highly probable that a greater portion of the community would participate in it by carrying it on in the manner proposed, than in any other mode. In fact, absurd as commercial monopoly would be, where law and authority exist to repress the mischievous effects, which might spring from unbounded rivalry, and to give to such rivalry salutary consequences; just in the same degree, would it be wise and advantageous to carry on the trade under consideration by an incorporated company. A nation discovers its wisdom no less in departing from general maxims, where it is no longer wise to adhere to them, than in an adherence to them in ordinary circumstances. In fact, it evinces a greater effort of reason. The first advance of a nation is marked by the establishment of maxims, which are deemed universal, but which further experience and reflection teach to be only general, admitting of occasional modifications and exceptions.

Should the House, however, not adopt these views, but prefer to open the trade to the enterprise of single individuals, or such associations as might be formed for the purpose, I would suggest the provisions already proposed for the trade with

the neighboring tribes of Indians, as the most advisable, with the exception of the provisions, which require the trader to be located, and that regular books of sales and purchases should be kept. In lieu of which provisions, I would propose that the goods intended for this branch of Indian trade, and the articles acquired by purchase from the Indians, should be entered under oath, the former with a copy of the invoice, and the latter, with a statement of prices, with the Indian agent at Mackinaw, St. Louis, Belle Point, on the Arkansas river, or Natchitoches, on Red river; or such other places as the President may designate.

The entry can be made without much inconvenience to the trader, as the geography of the country is such as to make it necessary for the trade to pass by one or the other of the points proposed, at each of which there is now an agent.

It is believed that these provisions would be as effectual as any that can be devised, short of a company incorporated for the purpose; but it is proper to observe, that they are open to the objections which have already been stated. In fact, they equally apply to any system, so long as the trade is exposed to the effects which must flow from the jealous rivalry of independent traders, where law and authority cannot step in to restrain its consequences within proper bounds. The Indians themselves are not proper judges of their own interests, and so far from restraining the effects of such rivalry, they would become the instruments of the most cunning and vicious of the traders, to wreak their vengeance on such as might stand in the way of their profits.

All which is respectfully submitted.

J. C. CALHOUN.

THE HON. HENRY CLAY,  
*Speaker of the House of Reps.*

## SINKING FUND.

[Communicated to the Senate, February 5, 1819.]

The Commissioners of the Sinking Fund respectfully report to Congress: That the measures which have been authorized by the board, subsequent to the last report of the 7th of February, 1818, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this board, dated the 4th day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as a part of this report.

DANIEL D. TOMPKINS, *Vice President of the United States.*  
JOHN QUINCY ADAMS, *Secretary of State.*  
WILLIAM H. CRAWFORD, *Secretary of the Treasury.*  
WILLIAM. WIRT, *Attorney General of the United States.*

WASHINGTON, February 5, 1819.

The SECRETARY OF THE TREASURY respectfully reports to the Commissioners of the Sinking Fund:

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1816, and applicable to the payments falling due after that year, which balance, as appears by statement B, annexed to the last annual report, amounted to	\$520,496 80
And the sums disbursed from the Treasury during the year 1817, on account of the principal and interest of the public debt, which sums, as appears by statement C, annexed to the said report, amounted to	25,883,600 92

*State of the Sinking Fund.*

Together with the gain on remittances to Europe during the year 1817, as appears by statements D and D d, thereunto also annexed, amounted, as per statement D, to \$1,379 80, and D d, to \$2,132 79	\$3,512 59
Together with a further sum, arising from damages and interest on a protested bill of exchange, being the difference between the amount of said bill at par, and the amount received into the Treasury in repayment thereof	416 00
And with a further sum, arising from interest on Treasury notes, placed in the hands of the late Commissioner of Loans in Massachusetts, for the payment of dividends, which interest accrued thereon previously to their being demanded by the stockholders, as per Treasury report No. 34,957	5,042 12
Amounting together, to	<u>\$26,413,068 43</u>

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury, during the year 1817, on account of the principal of moneys heretofore advanced for the payment of the principal and interest of the public debt, as appears by statement E, annexed to the report of last year, the sum of	\$460,564 80
There was also repaid into the Treasury, on account of the interest arising on Treasury notes, placed in the hands of the late Commissioner of Loans for Massachusetts, for the payment of dividends, but remaining unapplied, as appears by Treasury settlement No. 36,606, the sum of	5,845 33
	\$466,410 13
2. The sums actually applied during the year 1817 to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to this Department, amounted, as appears by the annexed statement A, to the sum of	<u>26,639,716 75</u>

In the reimbursement of the principal of the old 6 per cent. and deferred stocks	\$1,699,430 66
In the redemption of the domestic debt	14,951,842 28
In the reimbursement of temporary loans	550,000 00
Payment of the principal of Treasury notes	3,057,234 00

	20,258,506 94
On account of the interest and charges of the same	6,381,209 81
	<u>26,639,716 75</u>

As the funds in the banks, out of which a part of the interest arising on the funded debt was paid, were not covered by warrants until after the 31st December, 1817, the amount short provided, as appears by the annexed statement B, forms a deduction of	693,058 45
	<u>25,946,658 30</u>
	<u>\$26,413,068 43</u>

That, during the year 1818, the following disbursements were made out of the Treasury on account of the principal and interest of the public debt:

On account of the interest on the funded domestic debt and reimbursement of the principal of the old 6 per cent. and deferred stocks	\$7,355,061 38
On account of the principal and interest of Treasury notes	9,148,237 40
On account of the redemption of the Louisiana stock	4,750,598 12
On account of the interest on the same payable in Europe	67,226 50
On account of the purchase of the domestic debt	274,867 92
On account of certain parts of the domestic debt	792 36

Amounting together, as will appear by the annexed list of warrants marked C, to the sum of \$21,596,783 68

Which disbursements were made out of the following funds, viz:

1. From the annual appropriation of ten millions of dollars for the year 1818, agreeably to the second section of the act to provide for the redemption of the public debt, passed the 3d March, 1817	\$10,000,000 00
Deduct amount paid in anticipation of 1817, as per last report	2,830,108 52
	<u>7,169,891 48</u>

And so much of the surplus money in the Treasury, appropriated agreeably to the fourth section of the said act, and includes so much actually applied of the sum of \$1,030,606 97, estimated in the last annual report

4,978,177 16  
\$12,148,068 64

*State of the Sinking Fund.*

2. From repayments into the Treasury on account of moneys heretofore advanced for the purchase of bills of exchange, for the payment of interest and reimbursement of the funded debt, and of Treasury notes	\$300,477 64
3. From the appropriations in relation to Treasury notes, being the amount of payments on account of the principal and interest thereof, as per statement C, above recited	9,148,237 40

Making the amount paid upon warrants, as before stated - - - - - \$21,596,783 68

Have been accounted for, as far as respects the redemption of the funded debt, under the act passed the 3d March, 1817, and as exhibited in statement I, annexed, and which is rendered as a part of this report	415,993 87
The residuary balance of	21,180,789 81
	<u>\$21,596,783 68</u>

Will be accounted for in the next annual report, in conformity to the accounts which shall have been rendered to this Department.

In the meantime, the manner in which the said balance has been applied is estimated as follows : There is estimated to have been applied to the payment of the deficiencies of the provisions, at the end of the year 1817, as above stated, the sum of	\$693,058 45
In the reimbursement of the old and deferred 6 per cent. stocks in 1818	\$1,191,805 42
Towards the redemption of the Louisiana 6 per cent. stock, (a)	4,750,598 12
In the payment of the principal of Treasury notes	8,426,769 00
In payment of certain parts of domestic debt	792 36

14,369,964 90

In the payment of interest on the funded debt and Treasury notes, as per estimate F	5,996,360 93
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20,366,325 83

In the next annual statement the repayment in 1818 will be exhibited as a deduction from the total amount of warrants issued for public debt for the year, and of which they form a part, to the amount of	300,477 64
And there is estimated, as remaining unapplied in the hands of the agents in Europe, and in protested bills, on the 1st January, 1810, as per estimate G, the sum of	240,840 81

20,907,644 28

From which deduct so much included, as above stated, for the payment of principal and interest of the public debt, not covered by warrants on the Treasurer, viz :	
For so much, being Louisiana stock purchased by the agents in London, more than the amount remitted for that object	\$110,498 63
For so much, being the estimated amount of warrants short issued to the banks, for the payment of dividends, to 31st December, 1818	71,711 29
And this sum, short provided, on account of unclaimed dividends, payable, but not demanded at the Treasury	237,703 00
	419,912 92
	<u>20,487,731 36</u>
	<u>\$21,180,789 81</u>

(a) Amount of Louisiana stock originally issued - - - - - 11,250,000 00

Whereof there was purchased by the Commissioners of the Sinking Fund, prior to the 21st October, 1818	1,294,100 00
One moiety of the residue (\$9,955,900) directed by the Board of Commissioners to be paid on the 21st October, 1818, amounted to	\$4,977,950 00

Whereof there has been applied for and paid as above	4,750,598 12
Leaving to be applied for	227,351 88
	<u>4,977,950 00</u>
Residue to be provided for	<u>4,977,950 00</u>
	<u>\$11,250,000 00</u>

*State of the Sinking Fund.*

The statement G, accompanying this report, exhibits a sum provided abroad, to be applied to the payment of the interest on the Louisiana 6 per cent. stock at London and Amsterdam, to the amount of	\$136,903 07
The amount of protested bills returned for non-payment, and which remain to be covered, as per list herewith included in statement G	103,937 74
	<hr/> \$240,840 81 <hr/>

That funds remain unexpended for the redemption of outstanding Treasury notes.

That, in compliance with the sixth section of the act of the 3d March, 1817, for the redemption of the public debt, certificates of the public debt, which, by payment or purchase, have become the property of the United States, are regularly cancelled.

A statement marked H is annexed, which exhibits the amount of the debt of the United States on the 1st January, 1819. All which is respectfully submitted.

WM. H. CRAWFORD, *Secretary of the Treasury.*

# PUBLIC ACTS OF CONGRESS;

PASSED AT THE SECOND SESSION OF THE FIFTEENTH CONGRESS, BEGUN AND  
HELD AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 16, 1818.

An Act to provide for the removal of the Library of Congress to the north wing of the Capitol.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the joint Library Committee of Congress be, and they are hereby, authorized to cause suitable apartments in the north wing of the Capitol to be fitted up and furnished for the temporary reception of the Library of Congress, and to cause the said Library to be removed to and placed in the same.

SEC. 2. *And be it further enacted,* That the accounting officers of the Treasury be, and they are hereby, authorized and directed to settle the accounts of the expenditures which may be incurred under this act; and that the amount, so settled, be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted,* That the sum of two thousand dollars be, and the same is hereby, appropriated to the further purchase of books for the said Library.

Approved, December 3, 1818.

An Act to increase the number of Clerks in the Department of War.

*Be it enacted, &c.,* That the Secretary of the Department of War be, and he is hereby, authorized and empowered to employ an additional number of clerks in his Department, not exceeding twelve; and that the sum of twelve thousand dollars be, and the same is hereby, appropriated for their compensation; to be paid out of any money in the Treasury not otherwise appropriated. This act to continue in force for one year, and no longer.

Approved, December 5, 1818.

An Act making a partial appropriation for the military service of the United States, for the year one thousand eight hundred and nineteen, and to make good a deficit in the appropriation for holding treaties with the Indians.

*Be it enacted, &c.,* That the following sums be, and they are hereby appropriated to the objects herein specified, to wit:

For subsistence of the Army of the United States, two hundred thousand dollars.

For holding treaties with the Indian tribes, being a deficit in the appropriations for that object

in the year one thousand eight hundred and eighteen, fifty thousand dollars.

SEC. 2. *And be it further enacted,* That the said sums be paid out of any money in the Treasury not otherwise appropriated.

Approved, December 16, 1818.

An Act concerning the Western District Court of Pennsylvania.

*Be it enacted, &c.,* That no suit, action, plea, process, or proceeding, at law or in equity, which, on the twentieth day of April last, was depending and undetermined in the district or circuit court of the United States for the district of Pennsylvania, and by law directed to be removed to the district court of the United States for the western district of Pennsylvania, shall be discontinued or abated on account of the said court not having been opened or holden on the first Monday in June last, agreeably to the act of Congress passed on the twentieth day of April last; but that all such suits, actions, pleas, process, and proceedings, both at law and in equity, shall be deemed, taken, and, to all intents and purposes, be held to be depending in the said district court for the western district of Pennsylvania, as fully and effectually as if the said court had been opened and holden on the said first Monday of June last.

SEC. 2. *And be it further enacted,* That the said court be, and is hereby, authorized and empowered, from time to time, to make all such rules and orders touching such suits, actions, pleas, process, and proceedings, at law and in equity, as they might or could have done, if said court had been opened or holden on the said first Monday of June.

SEC. 3. *And be it further enacted,* That all suits, actions, pleas, process, and proceedings, aforesaid, which may be hereafter certified and transferred from the district or circuit court of the United States for the district of Pennsylvania, to the district court of the United States for the western district of Pennsylvania, shall, to all intents and purposes, be deemed and taken to be depending in the said court on the said first Monday of June last, and the same proceedings may be had therein as if the same had been on that day entered in the said court agreeably to the act of Congress aforesaid.

Approved, December 16, 1818.

*Public Acts of Congress.*

An Act to establish a Judicial District in Virginia, west of the Alleghany Mountain.

*Be it enacted, &c.,* That so much of the State of Virginia as is situate west of the summit of the mountains which separate the waters emptying into the Chesapeake bay and Roanoke river from the waters which fall into the Ohio river, shall be one judicial district; and there shall be a district court therein, to consist of one judge, who shall reside in the said district, and be called a district judge, and annually hold six sessions, as follows: At Clarksburg on the fourth Mondays of March and September; at Lewisburg, on the second Mondays of April and October; and at Wythe Courthouse, on the first Mondays of May and November.

SEC. 2. *And be it further enacted,* That the said court shall, besides the ordinary jurisdiction of a district judge, have jurisdiction of all causes, except of appeals and writs of error, cognizable by law in a circuit court, and shall proceed therein in the same manner as a circuit court; and writs of error shall be from decisions therein to the Supreme Court, in the same manner as from circuit courts.

SEC. 3. *And be it further enacted,* That there shall be a clerk appointed for the said court; and that a district attorney and marshal be appointed for the said district, in like manner as in other judicial districts.

SEC. 4. *And be it further enacted,* That there shall be allowed to the said judge of the said district court, the yearly compensation of one thousand six hundred dollars, to commence from the date of his appointment; that there shall be allowed to the said district attorney, the yearly compensation of two hundred dollars, to commence from the date of his appointment; and there shall be allowed to the said marshal the yearly sum of two hundred dollars, to commence from the date of his appointment; to be paid quarterly at the Treasury of the United States.

Approved, February 4, 1819.

An Act to authorize the payment, in certain cases, on account of the Treasury notes which have been lost or destroyed.

*Be it enacted, &c.,* That, whenever proof shall be exhibited, to the satisfaction of the Secretary of the Treasury, of the loss or destruction of any Treasury note, issued under the authority of any act of Congress, it shall be lawful for the said Secretary, upon receiving bond, with sufficient security to indemnify the United States against any other claim on account of the Treasury note alleged to be so lost or destroyed, to pay the amount due on such note, to the person who had lost it, or in whose possession it has been destroyed.

SEC. 2. *And be it further enacted,* That, whenever proof shall be exhibited, to the satisfaction of the Secretary of the Treasury, of the loss or destruction of any certificate of Mississippi stock, it shall be lawful to issue, to the person who had lost it, or in whose possession it was destroyed,

a new certificate of the same value with the one lost or destroyed; the person claiming such renewal complying with the rules and regulations at present established at the Treasury Department, for the renewal of certificates of stock lost or destroyed.

Approved, February 4, 1819.

An Act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren.

*Be it enacted, &c.,* That the sum of two thousand five hundred dollars is hereby appropriated, out of any money in the Treasury, not otherwise appropriated; which sum shall be distributed by the Secretary of the Navy, as prize money, among the representatives of Commodore Edward Preble, deceased, and Captain Charles Stewart, the officers and crew of the brig-of-war Syren, or to the representatives of such as may be dead, on account of their proportion of the sum of five thousand dollars, the appraised value of the brig Transfer, captured by the said brig Syren, for a breach of the blockade of the port of Tripoli, in the year eighteen hundred and four, during the war carried on by the United States against that Power; the said brig Transfer having been taken into the service of the United States by Commodore Edward Preble, commander of the blockading squadron; which brig was regularly condemned, as a good prize, by sentence of a court of admiralty.

Approved, February 4, 1819.

An Act making appropriations for the military service of the United States for the year eighteen hundred and nineteen.

*Be it enacted, &c.,* That the following sums be, and the same are hereby, respectively, appropriated:

For the pay of the Army of the United States, one million of dollars.

For subsistence, in addition to two hundred thousand dollars already appropriated, seven hundred and eighty-nine thousand two hundred and thirteen dollars.

For forage for officers, twenty-six thousand four hundred and ninety-six dollars.

For clothing, four hundred thousand dollars.

For bounties and premiums, sixty-two thousand five hundred dollars.

For the medical and hospital department, fifty thousand dollars.

For the quartermaster's department, five hundred and forty thousand dollars.

For arrearages, arising from a deficiency in the appropriation for the quartermaster's department, during the year eighteen hundred and eighteen, twenty-six thousand dollars.

For extra pay to non-commissioned officers and soldiers employed in the construction and repairs of military roads, ten thousand dollars.

For contingencies of the army, sixty thousand dollars.

For arrearages arising from a deficiency in the

*Public Acts of Congress.*

appropriation to pay outstanding claims, one hundred and twenty-six thousand two hundred and seven dollars.

For fortifications, five hundred thousand dollars.

For making a survey of the water-courses tributary to, and west of, the Mississippi; also those tributary to the same river, and northwest of the Ohio; six thousand five hundred dollars.

For the current expenses of the ordnance department, one hundred thousand dollars.

For the armories at Springfield and Harper's Ferry, three hundred and seventy-five thousand dollars.

For the erection and completion of arsenals, to wit: for completing the arsenal at Augusta, in Georgia, fifty thousand dollars; for erecting a powder magazine at Frankford, near Philadelphia, fifteen thousand dollars; for completing the arsenal and other works at Watertown, near Boston, twenty thousand dollars; for completing the arsenal and other works at Pittsburg, Pennsylvania, five thousand dollars; for a levee round the arsenal at Watervliet, New York, six thousand dollars; for building a powder magazine at Baton Rouge, twenty thousand dollars.

For cannon, powder, and shot, to fulfil existing contracts, for mounting cannon, and for purchase of lead, one hundred and ninety-one thousand two hundred dollars.

To provide for the payment of the retained bounty, and the per diem travelling allowance of pay and subsistence to soldiers discharged from the army, in the year eighteen hundred and nineteen, ninety-two thousand five hundred dollars.

For the purchase of maps, plans, books, and instruments, for the War Department, one thousand five hundred dollars.

For fuel, maps, plans, books, erection of quarters, and other buildings, and for contingent expenses for the academy at West Point, thirty-five thousand six hundred and forty dollars.

For marking and running the boundary line of the several cessions of land made by the Indians, fifteen thousand dollars.

For the payment of the half pay pensions to widows and orphans, two hundred thousand dollars.

For the annual allowance to the invalid pensioners of the United States, three hundred and sixty-eight thousand and thirty-nine dollars.

For the annual allowance to the Revolutionary pensioners, under the law of March eighteenth, one thousand eight hundred and eighteen, one million seven hundred and eight thousand five hundred dollars.

For arrearages arising from a deficiency in the appropriation for paying the Revolutionary pensions in the year eighteen hundred and eighteen, one hundred and thirty-nine thousand four hundred dollars and eighty-five cents.

For the Indian department, including arrearages incurred by holding Indian treaties, two hundred and forty thousand two hundred and seventy-nine dollars, including twenty thousand

dollars to defray an expense incurred under the Chickasaw treaty lately concluded; and, including, also, the further sum of seven thousand two hundred and seventy-nine dollars, being the aggregate amount of certain sums stipulated to be paid, within sixty days, to certain individuals named in the abovementioned treaty.

For annuity to the Creek nation, under the treaty of one thousand eight hundred and two, three thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 15, 1819.

An Act to extend the jurisdiction of the Circuit Courts of the United States to cases arising under the law relating to Patents.

*Be it enacted, &c.*, That the circuit courts of the United States shall have original cognizance, as well in equity as at law, of all actions, suits, controversies, and cases, arising under any law of the United States, granting or confirming to authors or inventors the exclusive right to their respective writings; inventions, and discoveries; and upon any bill in equity, filed by any party aggrieved in any such cases, shall have authority to grant injunctions, according to the course and principles of courts of equity, to prevent the violation of the rights of any authors or inventors, secured to them by any laws of the United States, on such terms and conditions as the said courts may deem fit and reasonable: *Provided, however*, That from all judgments and decrees of any circuit courts, rendered in the premises, a writ of error or appeal, as the case may require, shall lie to the Supreme Court of the United States, in the same manner, and under the same circumstances, as is now provided by law in other judgments and decrees of such circuit courts.

Approved, February 15, 1819.

An Act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to or from the boundary of the city of Washington, in the District of Columbia, through the said District, to the line thereof.

*Be it enacted, &c.*, That so much of the law of the State of Maryland, entitled "An act to incorporate companies to make certain turnpike roads through the counties of Montgomery, Frederick, and Washington, and for other purposes," passed at December session, one thousand eight hundred and seventeen, as relates to the Rockville and Washington Turnpike Road Company, be, and it hereby is, declared to be in full force within the District of Columbia.

SEC. 2. *And be it further enacted*, That the president and managers of the said turnpike road company be, and they are hereby, authorized to make said road from the boundary of the District of Columbia to the boundary of the city of Washington.

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SEC. 3. *And be it further enacted*, That, in relation to the process of constructing said road, and to toll-gates, and the rates of tolls thereon, the said company shall be, and hereby is, invested with all the rights, privileges, and immunities, and shall be subject to all the obligations, which, by the act of Congress, "to incorporate a company for making certain turnpike roads in the District of Columbia," passed April twenty-fifth, one thousand eight hundred and ten, are given, granted, imposed on, and vested in, the Company of the Columbia Turnpike Roads, had that company proceeded to make the said road according to the terms of the act of Congress aforesaid: *Provided*, That the formal written release, by the company last mentioned, of their right to make said road, according to their act of incorporation, be filed, within ten days after the passing of this act, in the office of the clerk of the circuit court of the United States for Washington county, in the District of Columbia.

SEC. 4. *And be it further enacted*, That the Corporation of Washington are hereby authorized and empowered, at any time, to purchase out the said road herein authorized to be made, with all the rights and profits thereto belonging, on paying to the said company a sum which shall be equal to the total amount expended on said road, with six per cent. interest thereon from the date of its expenditure.

Approved, February 15, 1819.

An Act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory.

*Be it enacted, &c.*, That the citizens of the Michigan Territory be, and they are hereby, authorized to elect one Delegate to the Congress of the United States, who shall possess the qualifications, and exercise the privileges, heretofore required of, and granted to, the Delegates from the several Territories of the United States.

SEC. 2. *And be it further enacted*, That every free white male citizen of said Territory, above the age of twenty-one years, who shall have resided therein one year next preceding an election, and who shall have paid a county or territorial tax, shall be entitled to vote at such election for a Delegate to the Congress of the United States, in such manner, and at such times and places, as shall be prescribed by the Governor and Judges of said Territory.

SEC. 3. *And be it further enacted*, That the person, duly qualified according to law, who shall receive the greatest number of votes at such election, shall be furnished, by the Governor of said Territory, with a certificate, under his official seal, setting forth that he is duly elected, by the qualified electors, the Delegate from said Territory to the Congress of the United States, for the term of two years from the date of said certificate, which shall entitle the person to whom the same shall be given to take his seat in the House of Representatives in that capacity.

Approved, February 16, 1819.

An Act to incorporate the Medical Society of the District of Columbia.

*Be it enacted, &c.*, That Charles Worthington, James H. Blake, John T. Shaaff, Thomas Sim, Frederick May, Joel T. Gustine, Elisha Harrison, Peregrine Warfield, Alexander McWilliams, George Clark, Henry Hunt, Thomas Henderson, John Harrison, Benjamin S. Bohrer, Samuel Horsey, Nicholas W. Worthington, William Jones, James T. Johnson, Richard Weightman, George May, Robert French, and such persons as they may, from time to time, elect, and their successors, are hereby declared to be a community, corporation, and body politic, forever, by and under the name and title of the Medical Society of the District of Columbia; and by and under the same name and title they shall be able and capable in law to purchase, take, have, and enjoy, to them and their successors, in fee or for lease, estate or estates, any land, tenements, rents, annuities, chattels, bank stock, registered debts, or other public securities within the District, by the gift, bargain, sale, or demise, of any person or persons bodies politic or corporate, capable to make the same, and the same, at their pleasure, to alien, sell, transfer, or lease and apply, to such purposes as they may adjudge most conducive to the promoting and disseminating medical and surgical knowledge, and for no other purpose whatever: *Provided, nevertheless*, That the said society, or body politic, shall not, at any one time, hold or possess property, real, personal, or mixed, exceeding, in total value, the sum of six thousand dollars per annum.

SEC. 2. *And be it further enacted*, That the members of the said society above designated, shall hold, in the city of Washington, four stated meetings in every year, viz., on the first Mondays in January, April, July, and October; the officers of the society to consist of a president, two vice presidents, one corresponding secretary, one recording secretary, one treasurer, and one librarian, who shall be appointed on the second Monday in March, one thousand eight hundred and nineteen, and on the annual meeting in January forever thereafter, (not less than seven members being present at such meeting.) And the society may make a common seal, and may elect into their body such medical and chirogical practitioners, within the District of Columbia, as they may deem qualified to become members of the society; it being understood that the officers of the society now elected, are to remain in office until the next election after the passage of this act.

SEC. 3. *And be it further enacted*, That it shall and may be lawful for the said medical society, or any number of them attending, (no less than seven,) to elect, by ballot, five persons, residents of the District, who shall be styled the Medical Board of Examiners of the District of Columbia; whose duty it shall be to grant licenses to such medical and chirogical gentlemen as they may, upon a full examination, judge adequate to commence the practice of the medical and chirogical arts, or as may produce diplomas from some



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respectable college or society; each person so obtaining a certificate to pay a sum not exceeding ten dollars, to be fixed on or ascertained by the society.

SEC. 4. *And be it further enacted*, That any three of the examiners shall constitute a board for examining such candidates as may apply, and shall subscribe their names to each certificate by them granted, which certificate shall also be countersigned by the president of the society, and have the seal of the society affixed thereto by the secretary, upon paying into the hands of the treasurer the sum of money to be ascertained, as above, by the society; and any one of the said examiners may grant a license to practise, until a board, in conformity to this act, can be held: *Provided*, That nothing herein contained shall authorize the said corporation in anywise to regulate the price of medical or surgical attendance on such persons as may need those services.

SEC. 5. *And be it further enacted*, That after the appointment of the aforesaid medical board, no person, not heretofore a practitioner of medicine or surgery within the District of Columbia, shall be allowed to practice within the said District, in either of the said branches, and receive payment for his services, without first having obtained a license, testified as by this law directed, or without the production of a diploma, as aforesaid, under the penalty of fifty dollars for each offence, to be recovered in the county court where he may reside, by bill of presentment and indictment; one half for the use of the society and the other for that of the informer.

SEC. 6. *And be it further enacted*, That every person who, upon application, shall be elected a member of the Medical Society, shall pay a sum not exceeding ten dollars, to be ascertained by the society.

SEC. 7. *And be it further enacted*, That the Medical Society be, and are hereby, empowered, from time to time to make such by-laws, rules, and regulations, as they may find requisite, to break or alter their common seal, to fix the times and places for the meetings of the board, and to do and perform such other things as may be requisite for carrying this act into execution, and which may not be repugnant to the Constitution and laws of the United States: *Provided*, That nothing herein contained shall extend, or be construed to extend, to prohibit any person, during his actual residence in any of the United States, and who, by the laws of the State wherein he doth or may reside, is not prohibited from practising in this District: *Provided always*, That it shall and may be lawful for any person, resident as aforesaid, and not prohibited as aforesaid, when specially sent for, to come into any part of this District, and administer or prescribe medicine, or perform any operation, for the relief of such to whose assistance he may be sent for.

SEC. 8. *And be it further enacted*, That Congress may, at any time, alter, amend, or annul, this act of incorporation of said society at pleasure.

Approved, February 16, 1819.

An Act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and nineteen.

*Be it enacted, &c.*, That for defraying the expenses of the navy for the year one thousand eight hundred and nineteen, the following sums be, and the same are hereby, appropriated:

For pay and subsistence of the officers and pay of the seamen, nine hundred and eighty-six thousand three hundred and seventy-two dollars and seventy-five cents.

For provisions, four hundred and five thousand five hundred and fifteen dollars.

For medicines, hospital stores, and all expenses on account of the sick, including the marine corps, thirty-six thousand dollars.

For repairs of vessels, three hundred and seventy-five thousand dollars.

For contingent expenses, three hundred thousand dollars.

For repairs of navy-yards, docks, and wharves, one hundred and fifty thousand dollars.

For completing medals and swords, seven thousand five hundred dollars.

For pay and subsistence of the marine corps, one hundred and twenty-two thousand eight hundred and ninety-eight dollars.

For clothing the same, two thousand and thirty dollars and ten cents.

For military stores for the same, one thousand and eighty-seven dollars and fifty cents.

For contingent expenses for the same, eighteen thousand six hundred dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 16, 1819.

An Act to incorporate the Provident Association of Clerks in the Civil Department of the Government of the United States in the District of Columbia.

*Be it enacted, &c.*, That, from and after the passage of this act, all those persons who are, or shall hereafter become members of the Provident Association of Clerks, employed in the civil department of the Government of the United States within the District of Columbia, be, and they are hereby, made a body corporate and politic, by the name and style of "The Provident Association of Clerks," and shall so continue until the third day of March, one thousand eight hundred and thirty-four, and by that name shall have perpetual succession, and by that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record and in any other place whatsoever; and by that name may make, have, and use, a common seal, and the same may break, alter, and renew, at pleasure; and shall have power to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation, not being contrary to law nor the constitution thereof, and generally to do and exe-

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cute all acts necessary or proper for the objects of said corporation, subject to the rules, regulations, restrictions, limitations, and provisions herein described and declared.

SEC. 2. *And be it further enacted*, That the following rules, regulations, restrictions, limitations, and provisions, shall form, and be fundamental articles of, the constitution of the said corporation, to wit :

1st. The association shall be composed of clerks, employed in the civil department of the Government of the United States, within the District of Columbia; and its object shall be the benefit of the families of such clerks after their decease; and the funds thereof shall be applied agreeably to the provisions of this act, and for no other use or purpose whatever.

2d. Every such clerk shall, before he is considered a member of the association, sign these articles.

3d. Every member shall pay, on or before the fifth day of January, April, July, and October, respectively, the sum of two dollars and fifty cents.

4th. In addition to the payments mentioned in the preceding article, every member is at liberty to pay such further sums as he may think proper, which payments shall form a separate and special fund, and, on the death of any member by whom such payments shall have been made, his family shall, in addition to the relief provided by other articles of the association, be entitled to an annuity or other benefit out of the special fund, proportionate to the amount of the payments made thereto by such member.

5th. Any member who shall omit to pay his quarterly subscription, within the time prescribed by the third article, shall forfeit and pay, for the benefit of the association, the sum of fifty cents, and the like sum for every quarter during which the said subscription shall remain unpaid. And if any member shall omit, for more than one year, to pay the subscriptions required by these articles, together with such fines as he may have incurred, he shall thereby forfeit, both for himself and his family, all rights to any of the benefits of the association, together with all the moneys which he may have previously paid, and shall cease to be a member.

6th. Any member ceasing to be a clerk, or removing out of the District of Columbia, shall not thereby be deprived of his membership.

7th. The officers of the association shall consist of a president, six directors, a secretary, and treasurer, to be elected by ballot, at a general meeting of the association, on the last Saturday in March, annually : and they shall form a board, to be called the president and board of officers. In all elections for officers, the person having the greatest number of votes shall be considered as elected; but when two or more persons have an equal number of votes, the balloting shall be repeated to fill the office or offices for which no choice shall have been made. If any vacancy shall occur among the officers, a general meeting shall be called to fill the same.

8th. It shall be the duty of the president to preside at all meetings of the association, and of the board of officers. In the absence of the president, his duties shall be performed by the director present, senior on the list.

9th. The secretary [shall] keep a journal of the proceedings of the association, and of the president and board of officers; and he shall perform such other duties as may be assigned to him, either by the association or by the president and board of officers.

10th. The treasurer shall receive and pay all moneys of the association; he shall keep an account of its receipts and disbursements, and shall lay before the association, at its annual meeting in the month of March, a general statement of all its moneyed transactions, as also a list of those members who are two quarters or upwards in arrear, which list and accounts shall be read and examined previously to the election of officers.

11th. The quarterly subscriptions, and all other moneys received on account of the association, shall be paid to the treasurer, and shall be by him deposited, as soon as may be thereafter, in such bank as shall be fixed on by the president and board of officers; and shall, from time to time, be vested in the public stocks of the United States, or in loans to individuals, secured upon real estate, or in the stocks of any incorporated banking institution; and the moneys so deposited shall be drawn out of the bank only on the order of the treasurer, countersigned by the secretary, and approved by the president.

12th. The funds of the association shall be appropriated and paid to the families of deceased members, at the following rates, to wit: to the families of those members who may die after the expiration of the first year, and within five years from the time of their admission, twice the amount of the subscription which shall have been paid by such members, respectively: to the families of those members who may die within the sixth year, from the time of their admission, respectively, the sum of two hundred dollars; to the families of those members who may die within the seventh year, from the time of their admission, respectively, the sum of three hundred dollars; to the families of those members who may die within the eighth year, from the time of their admission, respectively, the sum of four hundred dollars; to the families of those members who may die within the ninth year, from the time of their admission, respectively, the sum of five hundred dollars; to the families of those members who may die within the tenth year, from the time of their admission, respectively, the sum of six hundred dollars; to the families of those members who may die within the eleventh year, from the time of their admission, respectively, the sum of seven hundred dollars; to the families of those members who may die after the expiration of the eleventh year from the time of their admission, not less than eight hundred dollars.

13th. In all cases the widow and children of a

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deceased member shall be deemed his family, and as such entitled to the relief provided under the foregoing article; but a member having no wife or children, may adopt any other person or persons as his family, for all the purposes of this association, by giving notice in writing, to the president and board of officers, of the name and residence of such person or persons.

14th. The relief to which the families of deceased members shall be entitled, may be granted either by the payment of a certain sum of money, as prescribed by the twelfth article, or by annuity, the terms of which shall be fixed by the claimant, and the president and board of officers.

15th. In addition to the pecuniary relief to which the families of the deceased members are entitled, the members of this association pledge themselves to endeavor to provide for the permanent establishment in society of the persons composing such families.

16th. A general meeting of the association shall be held on the last Saturday in March, annually; but the president and board of officers may call a general meeting whenever they shall think it necessary.

17th. The regular meetings of the president and board of officers shall be on the first Saturday of January, April, July, and October, annually; but a special meeting of the board of officers may be called by the president, on a requisition in writing from any member thereof.

18th. In all cases where it is not otherwise expressly provided, a majority of the votes of the members of the association, assembled at any meeting, shall prevail.

19th. All legacies or donations made to the association, shall be appropriated to the general purposes thereof.

20th. The president and board of officers shall have power to make by-laws for their government, provided the same be consistent with these articles.

21st. If the association shall be dissolved by any event, or in any manner whatsoever, otherwise than by the expiration of the charter, the funds then belonging to it shall, after all claims and demands thereon are satisfied, be divided among the families of deceased members, according to the sums paid in by such such members respectively.

22d. The debts which the said corporation may, at any time, owe, shall not exceed the value of the property lawfully held and owned by them; and, in case of excess, the directors who may have been assenting thereto, shall be liable for the same in their natural and individual capacities; and an action of debt may, in such case, be brought against them, or any of them, in the proper court, by any creditor or creditors, of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding: And the property of the corporation shall also be liable for and chargeable with the excess.

23d. It shall not be lawful for the said corporation to deal or trade in the manner of a bank,

nor issue any note in the nature of a bank note, nor transact any other kind of business, or deal in any other manner or thing, than is expressly authorized by the eleventh article of the second section of this act; and any director or directors, who shall have assented to any such dealing or trade, shall, on conviction thereof, in the proper court, forfeit and pay the sum of one thousand dollars; one-half to the use of the poor of the City of Washington, and the other half to the use of the person who may prosecute for the same: *Provided always*, That Congress may, at any time, amend, alter, or annul, this act.

Approved, February 15, 1819.

**An Act to increase the salaries of certain officers of Government.**

*Be it enacted, &c.*, That, instead of the salaries now allowed by law to the following officers, there shall be paid to them, quarterly, the following annual salaries respectively; that is to say: to the Secretary of State, six thousand dollars; to the Secretary of the Treasury, six thousand dollars; to the Secretary of War, six thousand dollars; to the Secretary of the Navy, six thousand dollars; to the Attorney General, three thousand five hundred dollars; to the Postmaster General, four thousand dollars; to the Chief Justice of the United States, five thousand dollars; and to each of the Judges of the Supreme Court of the United States, four thousand five hundred dollars; and to the Assistant Postmaster General, and Additional Assistant Postmaster General, two thousand five hundred dollars each; to commence the first day of January, one thousand eight hundred and nineteen; and to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 20, 1819.

**An Act authorizing the President of the United States to purchase the lands reserved by the act of the third of March, eighteen hundred and seventeen, to certain Chiefs, Warriors, or other Indians, of the Creek nation.**

*Be it enacted, &c.*, That it shall be lawful for the President of the United States to purchase for, and on behalf of, the United States, any tract or tracts of land, reserved by the act of the third day of March, eighteen hundred and seventeen, to the chiefs, warriors, or other Indians, of the Creek nation, which they, or either of them, may be disposed to sell; and the amount of such purchase shall be paid out of any money in the Treasury not otherwise appropriated.

*Sec. 2. And be it further enacted*, That any tract or tracts of land, the title to which may be acquired by the United States, by virtue of this act, shall be offered at public sale, at the land offices of the district in which they may be situated, upon such day or days as the President shall, by proclamation, designate for that purpose, in the same manner, and on the same conditions and terms of credit, as is provided by law for the

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sale of public lands of the United States; and patents shall be granted therefor, as for other public lands and town lots sold by the United States.

Approved, February 20, 1819.

An Act for the relief of Adam Kinsley, Thomas French, and Charles S. Leonard.

*Be it enacted, &c.,* That the Secretary of War be, and he is hereby, authorized to pay unto Adam Kinsley, and Thomas French, such sum of money, in addition to that already paid, under a contract entered into on the twentieth day of October, one thousand eight hundred and eight, between Tench Coxe, on the part of the United States, with the said Adam Kinsley and Thomas French, for the manufacture of four thousand stand of arms, as shall increase the price of each stand of arms, delivered under the said contract, to a sum equal to that allowed to others who entered into contracts to manufacture and deliver arms to the United States, on or about the same time, keeping in view the quality of the arms delivered by each; and that the same be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted,* That the said Secretary make the like additional compensation to Charles S. Leonard, out of any moneys in the Treasury not otherwise appropriated, for arms manufactured and delivered by him, under a contract entered into on or about the time abovementioned, keeping in view the rules prescribed in the preceding section.

Approved, February 20, 1819.

An Act providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State.

*Be it enacted, &c.,* That there shall be granted to the State of Mississippi, two entire sections of land, or fractional sections, or quarter sections, not exceeding the quantity contained in two entire sections, for a seat of government in the said State; which land shall be located in one entire tract, at such place as, under the authority of the said State, shall be designated for the seat of government therein, whenever the Indian title shall have been extinguished thereto, and before the commencement of the public sales of the adjoining and surrounding lands belonging to the United States.

SEC. 5. *And be it further enacted,* That, in addition to the township of land granted for the support of Jefferson College, there shall be granted, in the said State, another township, or a quantity of land equal thereto, to be located in tracts of not less than four entire sections each, which shall be vested in the Legislature of the said State, in trust, for the support of a seminary of learning therein; which lands shall be located by the Secretary of the Treasury of the United States, whenever an extinguishment of Indian title shall be made for lands, suitable, in his

opinion, for that purpose, in the said State: which grant, hereby provided to be made, shall be considered as made in lieu of a township directed to be reserved by the fifth section of an act, entitled "An act to provide for the ascertaining and surveying of the boundary lines fixed by the treaty with the Creek Indians, and for other purposes," passed March three, one thousand eight hundred and fifteen; and which reserve of one township, provided to be made by the aforesaid fifth section of said act, shall be offered for sale, in the same manner as the other public lands in the same district.

Approved, February 20, 1819.

An Act directing the payment of certain bills drawn by General Armstrong in favor of William Morgan.

*Be it enacted, &c.,* That there shall be paid to Thomas Griffin, administrator of William Morgan, deceased, and trustee of Alexander Macaulley, out of any moneys in the Treasury not otherwise appropriated, the sum of five thousand two hundred and nine dollars and twenty-one cents, being the amount of certain bills of exchange drawn by General John Armstrong, in favor of said William Morgan, master of the ship *Louisa*, for the value of said ship *Louisa*, and cargo, under the Louisiana convention, and which bills were delivered to Joseph Fenwick, late Consul of the United States at Bordeaux: *Provided always,* That before such payment shall be made, the said Thomas Griffin shall give bond, with one or more sureties, to be approved by the Secretary of the Treasury, to indemnify the United States for such payment, against all persons whatsoever, who may hereafter make any claim on account of the said bills, or either of them.

Approved, February 20, 1819.

An Act supplemental to the act, entitled "An act further to amend the charter of the City of Washington."

*Be it enacted, &c.,* That any lot, or part of a lot, or other real estate whatsoever, in the City of Washington, heretofore sold, or hereafter to be sold, for any tax due to the corporation of said city, or laid or assessed under the authority of the said corporation, pursuant to the powers vested in it by virtue of the act to which this is a supplement, or of any other act, passed, or to be passed, shall and may be redeemed, so as effectually to reinstate and invest the proprietor, or his legal representatives, in and with all his former estate, as fully and effectually as if such sale had never been made, upon payment, or tender of payment, being made, at any time within two years from the time of such sale, by such proprietor, or by his heirs, executors, or administrators, or by any other person, in his or their behalf, to the purchaser of such lot or part of a lot, or other real estate, his executors or administrators, of the money actually paid by him for the same, with the addition of interest, at the rate of ten per cen-

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rum per annum, to be computed from the time of the payment of the said money by such purchaser; and if such purchaser, his executors, or administrators, have no known place of residence within the District of Columbia, or be not to be found at such place of residence, at the time such redemption is desired to be made; or if such proprietor, his heirs, executors, or administrators, or any other person in his behalf, shall offer to pay such money, with interest as aforesaid, and such purchaser, his executors, or administrators, shall refuse to accept the same, and give a sufficient receipt and acquittance in writing for the same, by way of redemption aforesaid, then, and in every such case, it shall and may be lawful for such proprietor, his heirs, executors, or administrators, or other person in his or their behalf, to make the redemption aforesaid, as effectually, by paying the said money, with interest as aforesaid, to the clerk of the circuit court for the county of Washington; whose duty it shall be to make report of the same to the said court, immediately, if in session, otherwise on the first day of session then next ensuing, and to deposite the said money for safe-keeping, and pay the same over to such purchaser, or his legal representatives, under the direction of the said court: *Provided*, That nothing in this act contained shall be construed to affect the right of any person now entitled, under any law heretofore enacted, to receive any higher or other premium than an interest of ten per centum per annum, as aforesaid, upon the redemption of any real estate, other than vacant and unimproved lots heretofore sold for taxes, nor to affect the vested legal right of such person to hold such real estate clear of such right of redemption, at any time less than two years from the time of the sale, such legal right being vested prior to the passing of this act; and that the said court may require such higher or other premium to be paid, by the person redeeming, to the purchaser, in any case wherein it shall appear to the said court that a vested legal right to such premium existed before the passing of this act.

Sec. 2. *And be it further enacted*, That the several collectors of the said taxes, or such other officer of the said corporation as shall be charged with the duty of selling any such real estate for taxes, shall, within ten days after every such sale, transmit to the clerk of the said court an accurate report in writing, certified by the clerk or register of the said corporation, containing a particular description of the property sold, the amount of taxes for the raising of which it has been sold, the names and residence of the person or persons to whom such property belongs, or to whom such taxes have been assessed, and of the purchaser or purchasers, the amount of the purchase money; distinguishing how much has been actually paid, and the clear surplus, if any, coming to the proprietor; which report it shall be the duty of the clerk of the said court forthwith to record among the land records of the said county, and the expense thereof shall be paid by the party who redeems the same.

Approved, February 20, 1819.

An Act providing additional penalties for false entries for the benefit of drawback, or bounty on exportation.

*Be it enacted, &c.*, That, in addition to the forfeitures and penalties heretofore provided by law, for making a false entry with the collector of any district, of any goods, wares, or merchandise, for the benefit of drawback or bounty on exportation, the person making such false entry shall, (except in the cases heretofore excepted by law,) forfeit and pay to the United States a sum equal to the value of the articles mentioned or described in such entry; to be sued for, recovered, distributed, and accounted for, in the manner prescribed by the act, entitled "An act to regulate the duties on imports and tonnage," passed on the second day of March, one thousand seven hundred and ninety-nine.

Approved, February 20, 1819.

An Act for the relief of Thomas Hall Jervey.

*Be it enacted, &c.*, That the Secretary of the Treasury shall cause to be paid to Thomas Hall Jervey, surveyor of the port of Charleston, one-half of the amount received by the United States on account of the condemnation of the schooner the *Lovely Cordelia*, and of the *James and Elizabeth*, and that an amount, not exceeding five thousand dollars, be appropriated for this purpose, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 24, 1819.

An Act concerning the heirs and legatees of Thomas Turner, deceased.

*Be it enacted, &c.*, That the Commissioners of the Navy Pension Fund are hereby authorized and required to pay, out of the said fund, to the executors of Thomas Turner, deceased, for the benefit of the heirs and legatees of the said Thomas Turner, deceased, the sum of one thousand five hundred dollars; the said sum being in consideration of services rendered by the said Thomas Turner, deceased, as accountant of the Navy Department, in receiving and settling all accounts respecting the said fund, and for which no compensation has heretofore been made.

Approved, February 24, 1819.

An Act for the relief of Kenzie and Forsyth.

*Be it enacted, &c.*, That the accounting officers of the Treasury Department be authorized and directed to settle the accounts of Kenzie and Forsyth, for three mules and ten horses which were lost in the public service at the evacuation of Chicago during the late war; and that the sum found due to said Kenzie and Forsyth be paid to them out of any unappropriated money in the Treasury.

Approved, February 24, 1819.

An Act making provision for the claim of M. Poirey.

*Be it enacted, &c.*, That the accounting officers of the Treasury be, and they are hereby, author-

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ized to liquidate, settle, and allow the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette, during the time of his service, in those capacities, in the time of the Revolutionary war between the United States of America and Great Britain.

Approved, February 24, 1819.

An Act allowing further time to complete the issuing and locating of Military Land Warrants.

*Be it enacted, &c.,* That the authority granted to the Secretary for the Department of War, by the second section of the act to provide for designating, surveying, and granting, the military bounty lands, approved the sixth day of May, one thousand eight hundred and twelve, and by the fourth section of the act making further provision for filling the ranks of the Army of the United States, approved December tenth, one thousand eight hundred and fourteen, to issue warrants for the military land bounties to persons entitled thereto, shall be revived and continued in force for the term of five years from and after the fourth day of March next.

*SEC. 2. And be it further enacted,* That the time limited by the act supplementary to the act further extending the time for issuing and locating military land warrants, and for other purposes, approved March ninth, one thousand eight hundred and eighteen, for issuing military land warrants, shall be extended to the fourth day of March, one thousand eight hundred and twenty-one, and the time limited by the said act for the location of unlocated military land warrants, shall be extended to the first day of October thereafter.

Approved, February 24, 1819.

An Act making provision for the claim of M. de Vienne.

*Be it enacted, &c.,* That the accounting officers of the War Department be, and they are hereby, authorized to liquidate, settle, and allow the claim of M. de Vienne, for the pay, appointments, and emoluments of lieutenant colonel, for seven months' service during the Revolutionary war between the United States and Great Britain.

Approved, February 24, 1819.

An Act supplementary to the act, entitled "An act to provide for the prompt settlement of Public Accounts."

*Be it enacted, &c.,* That, from and after the third day of March next, it shall be the duty of the second auditor of the Treasury to receive all unsettled accounts arising out of Indian affairs, with the exception of those appertaining to the Indian trade, and examine the same, and thereafter certify the balance, and transmit the accounts, with the vouchers and certificates, to the second comptroller, for his decision thereon: *Provided,* That if in the opinion of the President of the United States the public interest and convenience would be promoted by assigning all, or any part of, the said accounts to the third auditor, he

shall be, and hereby is, authorized to make such assignment accordingly.

*SEC. 2. And be it further enacted,* That it shall be the duty of the auditor charged with the examination of the accounts, as aforesaid, to keep all accounts of the receipts and expenditures of the public money in regard to them; to receive from the second comptroller the accounts which shall have been finally adjusted, and to preserve such accounts, with the vouchers and certificates. And it shall be the duty of the said auditor to make such reports on the business hereby assigned to him, as the Secretary of War may deem necessary, and require, from time to time, for the service of the War Department.

*SEC. 3. And be it further enacted,* That the Treasurer of the United States shall disburse all such moneys as shall have been previously ordered for the use of the Indian Department, with the exception of those relating to Indian trade beforementioned, by warrants from the Treasury; which disbursements shall be made pursuant to warrants drawn by the Secretary of War, and countersigned by the second comptroller, and registered by the second and third auditor, as the case may be.

*SEC. 4. And be it further enacted,* That so much of the act to which this is a supplement, as is inconsistent with this act, be, and the same is hereby, repealed.

Approved, February 24, 1819.

An Act to incorporate a company to build a bridge over the Eastern Branch of Potomac, between Eleventh and Twelfth streets East, in the City of Washington.

*Be it enacted, &c.,* That the following persons, viz: William Prout, William Marbury, Samuel N. Smallwood, Timothy Winn, and Adam Lindsay, or any three of them, be, and are hereby, constituted a board of commissioners, with full power and authority to open, or cause to be opened, books for receiving and entering subscriptions, for raising a capital stock, not exceeding twenty-five thousand dollars, in shares of one hundred dollars each, for the purpose of erecting a bridge between Eleventh and Twelfth streets East, in the City of Washington, over the Eastern Branch, to the most convenient landing on the opposite shore, and making such other incidental works, and defraying such other incidental expenses, as shall be required by this act, or deemed necessary or expedient by the company hereinafter named; the time, place, and manner, of receiving and entering such subscriptions, to be ascertained by the said board of commissioners, and duly advertised in such newspapers as they may deem expedient: *Provided,* That the time to be fixed upon, by the said board of commissioners, for opening books for receiving said subscriptions, shall be on or before the second Monday in March next; and that no subscription shall be received, unless the sum of ten dollars be first paid into the hands of the person authorized to receive the same, on each share subscribed for.

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SEC. 2. *And be it further enacted*, That, whenever two hundred of the said shares shall be subscribed for, all persons who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same, or as the legal representatives, successors, or assignees, of such subscribers, shall be, and they are hereby, made and created a body politic and corporate, by the name and style of "The Navy Yard Bridge Company;" and by that name may sue and be sued, implead and be impleaded, and do and suffer all acts, matters, and things, which a body politic and corporate may lawfully do and suffer; and may have a common seal, and the same may break and alter at pleasure, and may make all by-laws, rules, and regulations, and ordinances, for the good government of said company, and for carrying into effect the objects of their institution, so that such by-laws, rules, regulations, and ordinances, be not repugnant to the laws of the United States in force within the District of Columbia.

SEC. 3. *And be it further enacted*, That at all elections for directors and officers of said company, each and every member of the said company shall be entitled to as many votes as he or she may hold shares of the capital stock of said company, and may vote by proxy, executed under their hands and seals, in the presence of two witnesses; and that when two hundred of the said shares shall be subscribed for, as aforesaid, or as soon after as may be, the said board of commissioners shall call a meeting of the company, at some convenient place in the City of Washington, giving at least three weeks' notice thereof, by public advertisement, in one or more newspapers published in the District of Columbia; and the said company shall then and there elect, by ballot, five directors and a treasurer, and such other officers, agents, and servants, as the company may think fit to appoint; and as soon thereafter as a board of directors shall be formed, they shall elect one of their body to be president of the said board of directors; and all the powers, authority, and duties, whatsoever, by this act vested in the said board of commissioners, shall cease and determine, and thenceforward become vested in the president and directors for the time being of the said company; and the said board of commissioners shall account to the president and directors of the said company, at their first meeting, for all moneys received by them or their agents, on account of subscriptions, and shall immediately pay over the same to the treasurer of said company. And the said directors and treasurer shall hold their offices until the first Tuesday in October next, and until a new election shall be made by the company. And there shall be holden on that day, and, annually thereafter, on every first Tuesday in October, a meeting of the said company, for the purpose of electing five directors and a treasurer, and other officers and agents, as aforesaid.

SEC. 4. *And be it further enacted*, That the said shares shall be negotiable and transferrable

from one to another, by assignments in writing, executed, before two witnesses, at least, and authenticated and registered, as the said company may prescribe and direct in their by-laws and regulations, and shall be deemed personal, and not real, property; and that the shares held by any individual shall be liable to be attached, or taken by fieri facias, to satisfy the debts due from such individual, in like manner as other personal property may be.

SEC. 5. *And be it further enacted*, That a meeting of the said company may, at any time, be called, at some convenient place in the City of Washington, by a majority of the directors of the company, for the time being, and by one-third of the members of the said company, or by the proprietors of one-third of the shares actually subscribed for, or the legal representatives or proprietors: *Provided, however*, That no meeting of the said company shall be legal or valid, unless a quorum shall be formed, consisting of the majority of the members of said company, or of the proprietors of at least two-thirds of the number of shares actually subscribed for, their legal representatives, successors, or proxies, nor unless the time of such meeting be previously advertised, for three weeks successively, in one or more gazettes in the District of Columbia; and the said company shall have power, at any meeting legally called and constituted in pursuance of this act, to displace any of their directors or officers, and to supply, by a new election, all vacancies that may happen among the directors or officers of the company; and a majority of the said directors may provisionally supply, by their own election, any vacancies that may happen among the number of directors, or among the number of the officers of the company; and the person so elected, by the said directors, may continue in office till the next legal meeting of the company.

SEC. 6. *And be it further enacted*, That the amount of each share shall be paid by instalments of ten dollars, at such time as the said company shall direct; and in case any instalment or instalments shall not be paid at the time appointed by the said company, or within ten days thereafter, the same may be recovered in the name of the said company, by warrant from a justice of the peace, if the amount due shall not exceed twenty dollars, and if the sum so due shall exceed twenty dollars, the same may be recovered by motion in the name of the said company, on ten days' notice, in any court of record in the county or district where the debtor should be found; and in all such warrants and motions, the certificate of the clerk of the said company, authenticated by the president, under the common seal of the said company, shall be conclusive evidence of the defendant's being a member of the company, and prima facie evidence of the amount due on the shares held by such defendant; and if such instalment be not paid within sixty days after the time limited for the payment of the same, and advertisement for four weeks, successively, in one or more newspapers published in the Dis-

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trict of Columbia, the president and directors of the said company may proceed to forfeit, for the use of the company, the share or shares of the person or persons so failing to pay.

SEC. 7. *And be it further enacted*, That the said company be, and they are hereby, authorized and empowered to erect and build, or cause to be erected and built, over the Eastern Branch, between Eleventh and Twelfth streets East, in the City of Washington, and the land of William Marbury, on the opposite shore of the said Eastern Branch, a good and sufficient bridge, at least twenty-five feet wide, of sound and suitable materials, and in all respects adequate for the passage of travellers, horses, cattle, and carriages, with a secure railing on each side, at least four feet high.

SEC. 8. *And be it further enacted*, That the said company shall cause to be built, and maintained in good repair, a convenient and sufficient draw, or passage way, at least thirty feet wide, in the said bridge, over the main channel of the Branch, for the passing and repassing of vessels by day and by night. And the said company shall, at their own cost, and without toll, cause the said draw or passage way to be hoisted, or removed, without delay, for the passage of all vessels with masts, that are unable to pass under the same; and if, through the unskillfulness or negligence of the person or persons employed by the said company, to hoist or remove the said draw, any vessel shall be unjustly or unreasonably hindered or delayed, or shall be damaged in her hull, spars, or rigging, in passing the said draw, the said company shall be liable to the master, or the owner or owners, of such vessel, for damages, at the rate of six cents per ton of such vessel, for each and every hour such vessel shall be hindered or delayed, and for all damages in her hull, masts, and rigging, as aforesaid, to be ascertained and recovered, in a special action on the case, in any court of competent jurisdiction.

SEC. 9. *And be it further enacted*, That as soon the said bridge shall be erected and built, and completed as required by this act, the said company shall be entitled to demand and receive, by their proper agents, servants, or officers, tolls at the following rates, viz: For each foot passenger, three cents; for each person and a horse, six and one quarter of a cent; for carriages, wagons, or carts, seven cents for each wheel, and three cents for each horse, mule, or ox, drawing the same; for every other horse or mule, three cents; for cattle, three cents per head; for hogs and sheep, two cents each: *Provided*, That no toll shall be exacted at the said bridge, for the passage of any wagon or carriage laden with the property of the United States, or for the drivers thereof, or for the passage of any troops of the United States, or the militia of any State, or of the District of Columbia, marching in a body, or any cannon, or military equipments belonging to the United States: *Provided also*, That if the number of two hundred shares shall not be subscribed within one year from the time of opening subscription books by the commissioners, as hereinbefore directed; or if

the said bridge be not erected and built, and furnished and completed, by this act, within three years from and after the first day of October next; or if it should remain, at any time thereafter, so out of repair, for two years, as to be unsafe for travelling; then, and in that case, all the powers, authority, privileges, emoluments, and immunities, whatsoever, by this act granted to said company, shall cease and determine, and shall become absolutely forfeited.

Approved, February 24, 1819.

An Act to regulate the pay of the Army when employed on fatigue duty.

*Be it enacted, &c.*, That, whenever it shall be found expedient to employ the army at work on fortifications, in surveys, in cutting roads, and other constant labor, of not less than ten days, the non-commissioned officers, musicians, and privates, so employed, shall be allowed fifteen cents, and an extra gill of whiskey or spirits, each, per day, while so employed.

Approved, March 2, 1819.

An Act regulating passenger ships and vessels.

*Be it enacted, &c.*, That if the master or other person on board of any ship or vessel, owned in the whole or in part by a citizen or citizens of the United States, or the Territories thereof, or by a subject or subjects, citizen or citizens, of any foreign country, shall, after the first day of January next, take on board of such ship or vessel, at any foreign port or place, or shall bring or convey into the United States, or the Territories thereof, from any foreign port or place; or shall carry, convey, or transport, from the United States, or the Territories thereof, to any foreign port or place, a greater number of passengers than two for every five tons of such ship or vessel, according to custom-house measurement, every such master, or other person so offending, and the owner or owners of such ship or vessel, shall severally forfeit and pay to the United States the sum of one hundred and fifty dollars, for each and every passenger so taken on board of such ship or vessel over and above the aforesaid number of two to every five tons of such ship or vessel; to be recovered by suit, in any circuit or district court of the United States, where the said vessel may arrive, or where the owner or owners aforesaid may reside: *Provided, nevertheless*, That nothing in this act shall be taken to apply to the complement of men usually and ordinarily employed in navigating such ship or vessel.

SEC. 2. *And be it further enacted*, That if the number of passengers so taken on board of any ship or vessel as aforesaid, or conveyed or brought into the United States, or transported therefrom as aforesaid, shall exceed the said proportion of two to every five tons of such ship or vessel, by the number of twenty passengers, in the whole, every such ship or vessel shall be deemed and taken to be forfeited to the United States, and



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shall be prosecuted and distributed in the same manner in which the forfeitures and penalties are recovered and distributed under the provisions of the act, entitled "An act to regulate the collection of duties on imports and tonnage."

SEC. 3. *And be it further enacted*, That every ship or vessel bound on a voyage from the United States to any port on the continent of Europe, at the time of leaving the last port whence such ship or vessel shall sail, shall have on board, well secured under deck, at least sixty gallons of water, one hundred pounds of salted provisions, one gallon of vinegar, and one hundred pounds of wholesome ship bread, for each and every passenger on board such ship or vessel, over and above such other provisions, stores, and live stock, as may be put on board by such master or passenger for their use, or that of the crew of such ship or vessel; and in like proportion for a shorter or longer voyage; and if the passengers, on board of such ship or vessel in which the proportion of provisions herein directed shall not have been provided, shall at any time be put on short allowance, in water, flesh, vinegar, or bread, during any voyage aforesaid, the master and owner of such ship or vessel shall severally pay to each and every passenger who shall have been put on short allowance as aforesaid, the sum of three dollars for each and every day they may have been on such short allowance; to be recovered in the same manner as seamen's wages are, or may be, recovered.

SEC. 4. *And be it further enacted*, That the captain or master of any ship or vessel arriving in the United States, or any of the Territories thereof, from any foreign place whatever, at the same time that he delivers a manifest of the cargo, and, if there be no cargo, then at the time of making report or entry of the ship or vessel, pursuant to the existing laws of the United States, shall also deliver and report, to the collector of the district in which such ship or vessel shall arrive, a list or manifest of all the passengers taken on board of the said ship or vessel at any foreign port or place; in which list or manifest it shall be the duty of the said master to designate, particularly, the age, sex, and occupation of the said passengers, respectively, the country to which they severally belong, and that of which it is their intention to become inhabitants; and shall further set forth whether any, and what number, have died on the voyage; which report and manifest shall be sworn to by the said master, in the same manner as is directed by the existing laws of the United States, in relation to the manifest of the cargo; and that the refusal or neglect of the master aforesaid, to comply with the provisions of this section, shall incur the same penalties, disabilities, and forfeitures, as are at present provided for a refusal or neglect to report and deliver a manifest of the cargo aforesaid.

SEC. 5. *And be it further enacted*, That each and every collector of the customs, to whom such manifest or list of passengers as aforesaid shall be delivered, shall, quarter-yearly, return copies thereof to the Secretary of State of the United

States, by whom statements of the same shall be laid before Congress at each and every session.

Approved, March 2, 1819.

An Act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

*Be it enacted, &c.*, That the inhabitants of the Territory of Alabama be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper; and that the said Territory, when formed into a State, shall be admitted into the Union upon the same footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido river; thence, east, to the western boundary line of the State of Georgia; thence, along said line, to the southern boundary line of the State of Tennessee; thence, west, along said boundary line, to the Tennessee river; thence, up the same, to the mouth of Bear creek; thence, by a direct line, to the northwest corner of Washington county; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido river; and thence, up the same, to the beginning.

SEC. 3. *And be it further enacted*, That it shall be the duty of the surveyor of the lands of the United States south of the State of Tennessee, and the surveyor of the public lands in the Alabama Territory, to run and cut out the line of demarcation between the State of Mississippi and the State to be formed of the Alabama Territory; and if it should appear to said surveyors, that so much of said line designated in the preceding section, running due south, from the northwest corner of Washington county to the Gulf of Mexico, will encroach on the counties of Wayne, Green, or Jackson, in said State of Mississippi, then the same shall be so altered as to run in a direct line from the northwest corner of Washington county to a point on the Gulf of Mexico, ten miles east of the mouth of the river Pascagoula.

SEC. 4. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all persons having, in other respects, the legal qualifications to vote for representatives in the General Assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a constitution, who shall be appointed among the several counties as follows:

From the county of Madison, eight representatives.

From the county of Monroe, four representatives.

From the county of Blount, three representatives.

From the county of Limestone, three representatives.

From the county of Shelby, two representatives.

From the county of Montgomery, two representatives.

From the county of Washington, two representatives.

From the county of Tuscaloosa, two representatives.

From the county of Lawrence, two representatives.

From the county of Franklin, two representatives.

From the county of Cotaco, two representatives.

From the county of Clark, two representatives.

From the county of Baldwin, one representative.

From the county of Cawhauba, one representative.

From the county of Conecuh, one representative.

From the county of Dallas, one representative.

From the county of Marengo, one representative.

From the county of Marion, one representative.

From the county of Mobile, one representative.

From the county of Lauderdale, one representative.

From the county of St. Clair, one representative.

From the county of Autauga, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and Tuesday in May next, throughout the several counties in the said Territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said Territory, regulating elections therein for the members of the House of Representatives.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at the town of Huntsville, on the first Monday in July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient, at that time, to form a constitution and State government for the people within the said Territory; And if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed, shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the people and States of the territory northwest of the river Ohio, so far as the same

has been extended to the said Territory, by the articles of agreement between the United States and the State of Georgia, or of the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby offered to the convention of the said Territory of Alabama, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States.

First. That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.

Second. That all salt springs within the said Territory, and the lands reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used, under such terms, conditions, and regulations, as the Legislature of the said State shall direct: *Provided*, The said Legislature shall never sell, nor lease the same for a longer term than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of September, in the year one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for making public roads, canals, and improving the navigation of rivers, of which three-fifths shall be applied to those objects within the said State, under the direction of the Legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress.

Fourth. That thirty-six sections, or one entire township, to be designated by the Secretary of the Treasury, under the direction of the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the Legislature of the said State, to be appropriated solely to the use of such seminary by the said Legislature. And the Secretary of the Treasury, under the direction as aforesaid, may reserve the seventy-two sections, or two townships, hereby set apart for the support of a seminary of learning, in small tracts: *Provided*, That no tract shall consist of less than two sections: *And provided, always*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right to the waste or unappropriated lands lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and moreover, that each and

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every tract of land sold by the United States after the first day of September, in the year one thousand eight hundred and nineteen, shall be and remain exempt from any tax laid by the order, or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing within the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on lands the property of the United States; and that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State.

SEC. 7. *And be it further enacted*, That in lieu of a section of land, provided to be reserved for the seat of government of the said Territory, by an act, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory," there be granted to the said State, for the seat of the government thereof, a tract of land containing sixteen hundred and twenty acres, and consisting of sundry fractions and a quarter section, in sections thirty-one and thirty-two, in township sixteen, and range ten, and in sections five and six, in township fifteen, and range ten, and in sections twenty-nine and thirty, in the same township and range, lying on both sides of the Alabama and Cahawba rivers, and including the mouth of the river Cahawba, and which heretofore has been reserved from public sale, by order of the President of the United States.

SEC. 8. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 9. *And be it further enacted*, That, in case the said convention shall form a constitution and State government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be framed or provided, to be transmitted to Congress for its approbation.

Approved, March 2, 1819.

An Act supplementary to the acts concerning the Coasting Trade.

*Be it enacted, &c.*, That, for the more convenient regulation of the coasting trade, the seacoast and navigable rivers of the United States be, and hereby are, divided into two great districts: the first, to include all the districts on the seacoast and navigable rivers, between the eastern limits of the United States and the southern limits of Georgia; and the second, to include all the districts on the seacoast and navigable rivers, between the river Perdido and the western limits of the United States.

SEC. 2. *And be it further enacted*, That every ship or vessel, of the burden of twenty tons or

upwards, licensed to trade between the different districts of the United States, shall be, and is hereby, authorized to carry on such trade between the districts included within the aforesaid great districts, respectively, and between a State in one, and another adjoining State in another great district, in manner, and subject only to the regulations that are now by law required to be observed by such ships or vessels, in trading from one district to another in the same State, or from a district in one State to a district in the next adjoining State, anything in any law to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That every ship or vessel, of the burden of twenty tons or upwards, licensed to trade as aforesaid, shall be, and is hereby, required, in trading from one to another great district, other than between a State in one, and an adjoining State in another great district, to conform to and observe the regulations that, at the time of passing this act, are required to be observed by such vessels in trading from a district in one State to a district in any other than an adjoining State.

SEC. 4. *And be it further enacted*, That the trade between the districts not included in either of the two great districts aforesaid, shall continue to be carried on in the manner, and subject to the regulations already provided for this purpose.

SEC. 5. *And be it further enacted*, That this act shall commence and be in force from and after the thirtieth day of June next after the passing thereof.

Approved, March 2, 1819.

An Act to establish a separate Territorial Government in the southern part of the Territory of Missouri.

*Be it enacted, &c.*, That, from and after the fourth day of July next, all that part of the Territory of Missouri which lies south of a line beginning on the Mississippi river, at thirty-six degrees north latitude, running thence west to the river St. François; thence, up the same, to thirty-six degrees thirty minutes north latitude; and thence, west, to the western boundary line; shall, for the purposes of a territorial government, constitute a separate Territory, and be called the Arkansas Territory.

SEC. 2. *And be it further enacted*, That there shall be established in the said Territory of Arkansas, a temporary government, to consist of three departments, the Executive, the Legislative, and the Judiciary.

SEC. 3. *And be it further enacted*, That the executive power shall be vested in a Governor, who shall reside in the said Territory, and shall hold his office during three years, unless sooner removed by the President of the United States: he shall be Commander-in-Chief of the militia of said Territory, shall have power to appoint and commission all officers required by law to be appointed for said Territory, whose appointments are not otherwise provided for by this act; shall take care that the laws be faithfully executed; shall have power to grant pardons for

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offences against the said Territory, and reprieves for those against the United States, until the decision of the President thereon shall have been made known; shall, on extraordinary occasions, have power to convene the General Assembly, hereinafter provided for, after one shall have been organized in conformity to law; shall, ex officio, be superintendent of Indian affairs, and shall have such other powers, and perform such further duties, as are by law given to, and imposed on, the Governor of the Missouri Territory, in all cases in which they shall become legally applicable to the Territory of Arkansas.

SEC. 4. *And be it further enacted*, That there shall be a secretary for the said Territory, who shall reside therein, and continue in office for the term of four years, unless sooner removed by the President: he shall perform all the duties imposed on the secretary for the Territory of Missouri, by an act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of Missouri."

SEC. 5. *And be it further enacted*, That the legislative power shall, until the organization of the General Assembly, hereinafter provided for, be vested in the Governor and the judges of the superior court of the Territory, who shall have power to pass any law for the administration of justice in said Territory, which shall not be repugnant to this act, or inconsistent with the Constitution of the United States: *Provided*, That whenever the General Assembly shall be organized, all the legislative power of the Territory shall be vested in, and be exercised by, the said General Assembly.

SEC. 6. *And be it further enacted*, That so much of the act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of the Territory of Missouri," as relates to the organization of a General Assembly therein, prescribes the powers and privileges thereof, the mode of election, and period of service, of the members thereof, and defines the qualifications and privileges of the electors and elected, shall be in full force and operation in the Arkansas Territory, to the extent of its application, so soon as the Governor thereof shall be satisfied that such is the desire of a majority of freeholders thereof, and not until then: *Provided*, That, until there shall be five thousand free white males, of the age of twenty-one years and upwards, resident in the said Territory, the whole number of representatives shall not exceed nine.

SEC. 7. *And be it further enacted*, That the judicial power of the Territory shall be vested in a superior court, and in such inferior courts as the legislative department of the Territory shall, from time to time, institute and establish, and in justices of the peace. The superior court shall be composed of three judges, who shall reside in the Territory, and continue in office for the term of four years, unless sooner removed by the President. The superior court shall have jurisdiction in all criminal and penal cases, and exclusive cognizance of all capital cases, and shall have

and exercise original jurisdiction, concurrently with the inferior courts, and exclusive appellate jurisdiction in all civil cases in which the amount in controversy shall be one hundred dollars or upwards. The superior court shall be holden at such times and place, or places, as the legislative department shall direct, and continue in session until the business therein shall be disposed of, or as long as shall be prescribed by law: *Provided*, That any two of the judges shall constitute a court of appellate, and any one a court of original jurisdiction.

SEC. 8. *And be it further enacted*, That the Governor, secretary, judges, and all other officers of the Territory, civil and military, shall, before they enter on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and to discharge, with fidelity, the duties of their offices; the Governor, before a judge of the supreme or district court of the United States, or a judge of the superior court of the said Territory; the secretary and judges, before the said Governor, or a judge of the Supreme or district court of the United States; and all other officers, before the Governor, or any of the judges of the supreme or inferior courts, or justices of said Territory.

SEC. 9. *And be it further enacted*, That the Governor, secretary, and judges of the superior court authorized for said Territory, during the temporary government thereof, shall be appointed by the President of the United States, with the advice and consent of the Senate: *Provided*, That the President shall have full power, during the recess of the Senate, to commission all or any of the said officers, until the end of the session of Congress next succeeding the date of the commission. The Governor, secretary, and judges of the superior court, shall receive the same compensation, payable quarter-yearly, which the Governor, secretary, and superior judges, of the Missouri Territory, are entitled to by law.

SEC. 10. *And be it further enacted*, That all the laws which shall be in force in the Territory of Missouri, on the fourth day of July next, not inconsistent with the provisions of this act, and which shall be applicable to the Territory of Arkansas, shall be, and continue, in force in the latter Territory, until modified or repealed by the legislative authority thereof.

SEC. 11. *And be it further enacted*, That the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from all taxes, for the term of three years from and after the date of the patents, respectively.

SEC. 12. *And be it further enacted*, That whenever, according to the provisions of this act, the people of the Arkansas Territory shall have a right to elect members of the House of Representatives of their General Assembly, they shall also have the right to elect a Delegate from the said Territory to the Congress of the United States, who shall possess the same powers, enjoy the same privileges, and receive the same compensa-

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tion, granted and secured by law to the Delegates from other Territories.

SEC. 13. *And be it further enacted*, That, until otherwise directed by the legislative department of the said Territory of Arkansas, the seat of the Territorial government thereof shall be the post of Arkansas, on the Arkansas river.

SEC. 14. *And be it further enacted*, That the line now established, by law, between the land offices at the seat of justice in the county of Lawrence, and at the town of Jackson, in the county of Cape Girardeau, shall, from and after the passage of this act, be so altered as to run, be the same, and correspond with the northern line of the said Territory of Arkansas, anything in the act, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," passed the seventeenth day of February, one thousand eight hundred and eighteen, to the contrary notwithstanding.

Approved, March 2, 1819.

An Act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky.

*Be it enacted, &c.*, That the Postmaster General may, and he is hereby, authorized to contract for the transportation of the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky, for any term of time, not exceeding four years in any one contract, in the same way and manner as he lawfully may, for the carriage of it by land; but the whole expense of sending the mail in steamboats shall not exceed that of transmitting the same by land.

Approved, March 2, 1819.

An Act making appropriations for the support of Government for the year one thousand eight hundred and nineteen.

*Be it enacted, &c.*, That the following sums be, and the same are hereby, respectively appropriated; that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, three hundred and sixty thousand and ten dollars.

For the expenses of firewood, stationery, printing, and other contingent expenses, of the two Houses of Congress, forty-two thousand dollars.

For the expenses of the Library of Congress, including the Librarian's allowance, one thousand nine hundred and fifty dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For compensation to the Secretary of State, six thousand dollars.

For compensation to the clerks in the Department of State, per act of twentieth April, eigh-

teen hundred and eighteen, fifteen thousand nine hundred dollars.

For additional clerk hire, to cover expenses of copying, in the Department of State, one thousand five hundred dollars.

For the contingent and incidental expenses of the said Department, including expenses of printing and distributing copies of the Laws of the second session of the fifteenth Congress, and printing the laws in newspapers, twenty-four thousand one hundred and thirty dollars.

For compensation to the messengers in said office, including the messenger to the Patent office, six hundred and sixty dollars.

For compensation to the Secretary of the Treasury, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Treasury, per act of twentieth April, eighteen hundred and eighteen, ten thousand four hundred dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks in the office of the First Comptroller, per act of twentieth April, one thousand eight hundred and eighteen, seventeen thousand eight hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Comptroller of the Treasury, three thousand dollars.

For compensation to the clerks in said office, per act of twentieth April, eighteen hundred and eighteen, twelve thousand five hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the First Auditor, per act of twentieth April, eighteen hundred and eighteen, fifteen thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Auditor, three thousand dollars.

For compensation to the clerks in the office of the Second Auditor, per act of twentieth April, eighteen hundred and eighteen, seventeen thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Third Auditor, three thousand dollars.

For compensation to the clerks in the Third Auditor's office, per act of twentieth April, eighteen hundred and eighteen, thirty-seven thousand dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For compensation to the Fourth Auditor, three thousand dollars.

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For compensation to the clerks in the Fourth Auditor's office, per act of twentieth April, eighteen hundred and eighteen, fifteen thousand and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Fifth Auditor, three thousand dollars.

For compensation to the clerks in the Fifth Auditor's office, per act of twentieth April, eighteen hundred and eighteen, ten thousand five hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks in the Treasurer's office, per act of twentieth April, eighteen hundred and eighteen, five thousand two hundred and fifty dollars.

For additional clerk hire, being for an arrearage of pay to an assistant to the chief clerk in said office, three hundred dollars.

For a further allowance for clerk hire, being for the salary of said assistant, for the year eighteen hundred and nineteen, four hundred dollars.

For compensation to an additional clerk in said office, eight hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the General Land Office, three thousand dollars.

For compensation to the clerks in the office of said commissioner, per act of twentieth April, eighteen hundred and eighteen, twenty-two thousand five hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the Revenue, three thousand dollars.

For compensation to the clerks in said commissioner's office, per act of twentieth April, eighteen hundred and eighteen, four thousand three hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks in the Register's office, per act of twentieth April, eighteen hundred and eighteen, twenty-two thousand one hundred and fifty dollars.

For compensation to the messengers in said office, including the sum of ninety dollars for stamping ships' registers, five hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For allowance to the person employed in transmitting passports and sea-letters, for expense of translating foreign languages in the office of the Secretary of the Treasury, for printing, fuel, and other contingent expenses, in the Treasury Department, and in the several offices therein, forty thousand and fifty dollars.

For compensation to a superintendent and two

watchmen, employed for the security of the Treasury buildings, and for repairs of engines, hose, and fire-buckets, one thousand one hundred dollars.

For compensation to the Secretary of War, six thousand dollars.

For compensation to the clerks in the office of the Secretary of War, per act of twentieth April, eighteen hundred and eighteen, twenty-five thousand eight hundred dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, five thousand dollars.

For arrearages of contingent expenses in said office, prior to the year eighteen hundred and nineteen, one thousand dollars.

For compensation to the messenger and his assistants in said office, seven hundred and ten dollars.

For compensation to the Paymaster General, two thousand five hundred dollars.

For compensation to the clerks in the Paymaster General's office, per act of twentieth April, eighteen hundred and eighteen, nine thousand two hundred dollars.

For arrearages to the clerks in said office, for the year eighteen hundred and seventeen, nine hundred and forty dollars and forty cents.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, two thousand dollars.

For compensation to the clerks in the office of the Adjutant General, two thousand one hundred and fifty dollars.

For compensation to the clerks in the office of the Ordnance Department, per act of twentieth April, eighteen hundred and eighteen, two thousand nine hundred and fifty dollars.

For the contingent expenses of said office, eight hundred and seventy dollars.

For compensation to the clerks in the office of the Engineer Department, two thousand one hundred and fifty dollars.

For fuel, stationery, printing, and other contingent expenses of said office, one thousand seven hundred and ninety dollars.

For compensation to the clerks employed in the office of the Surgeon General, one thousand one hundred and fifty dollars.

For the contingent expenses of said office, three hundred and seventy-four dollars.

For compensation to the Secretary of the Navy, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Navy, per act of twentieth April, eighteen hundred and eighteen, eight thousand two hundred dollars.

For expense of fuel, stationery, and other contingent expenses, in said office, two thousand five hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

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For compensation to their secretary, two thousand dollars.

For compensation to the clerks in the office of said commissioners, per act of twentieth April eighteen hundred and eighteen, three thousand five hundred and fifty dollars.

For an addition to the allowance of clerk hire in said office, four thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For the contingent expenses of said office, two thousand dollars.

For compensation to a superintendent, and two watchmen, and for other expenses incurred for the security of the State, War, and Navy Departments, one thousand one hundred dollars.

For compensation to the Postmaster General, four thousand dollars.

For compensation to the clerks in the office of the Postmaster General, per act of twentieth April, eighteen hundred and eighteen, twenty-two thousand seven hundred dollars.

For compensation to the messengers in the General Post Office, six hundred and sixty dollars.

For compensation to the Assistant Postmaster General, two thousand five hundred dollars.

For compensation to the second Assistant Postmaster General, two thousand five hundred dollars.

For the contingent expenses of the General Post Office, four thousand dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the clerks in the office of the Surveyor General, two thousand one hundred dollars.

For compensation to the surveyor south of Tennessee, two thousand dollars.

For compensation to the clerks in his office, and for contingent expenses, one thousand seven hundred dollars.

For compensation to the surveyor in the State of Illinois and the Missouri Territory, two thousand dollars.

For compensation to his clerks, per act of third April, eighteen hundred and eighteen, two thousand dollars.

For compensation to the surveyor in the Alabama Territory, two thousand dollars.

For compensation to his clerks, one thousand five hundred dollars.

For compensation to the Commissioner of the Public Buildings at Washington, two thousand dollars.

For compensation to the officers and clerks of the Mint, nine thousand six hundred dollars.

For wages of the persons employed in the different operations of the Mint, ten thousand and seventy-five dollars.

For repairs, cost of iron and machinery, rents, and other contingent expenses, of the Mint, five thousand four hundred dollars.

For allowance of wastage in the gold and silver coinage of the Mint, three thousand dollars.

For compensation to the Governor, Judges,

and Secretary, of the Missouri Territory, seven thousand eight hundred dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Alabama Territory, seven thousand one hundred and thirty-three dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such claims against the United States, on account of the Civil Department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, two thousand dollars.

For compensation to the Chief Justice, the Associate Judges, and District Judges of the United States, including the chief justice and associate judges of the District of Columbia, seventy-five thousand nine hundred and fourteen dollars and twenty-eight cents.

For compensation to the Attorney General of the United States, three thousand five hundred dollars.

For compensation to his clerk, per act of twentieth April, eighteen hundred and eighteen, one thousand dollars.

For the contingent expenses of his office, five hundred dollars.

For compensation to sundry district attorneys and marshals, as granted by law, including those in the several Territories, eight thousand two hundred dollars.

For compensation to the reporter of the decisions of the Supreme Court of the United States, for the year eighteen hundred and nineteen, one thousand dollars.

For the payment of sundry pensions granted by the late and present Governments, two thousand and ninety dollars.

For the payment of balances due to certain collectors of the old internal revenue, pursuant to the provisions of the act of thirteenth of February, eighteen hundred and fifteen, fifteen thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stakeage of channels, bars, and shoals, including the purchase and transportation of oil, keepers' salaries, repairs, and improvements, and contingent expenses, and including, also, balances of former appropriations for Savannah river, Lake Erie, and Little Gull Island, which were carried to the surplus fund the thirty-first of December last, seventy-four thousand three hundred and sixty-two dollars twenty-seven cents.

For the purchase or erection of custom-houses and public warehouses, one hundred thousand dollars.

For claims due, and becoming due, under existing contracts for constructing the United States' road from Cumberland to the Ohio river

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two hundred and fifty thousand dollars; and for completing the said road, the sum of two hundred and eighty-five thousand dollars: which several sums, hereby appropriated, together with the amount heretofore advanced by the United States for making said road, shall be repaid out of the fund reserved for laying out and making roads to the States of Ohio, Indiana, and Illinois, by virtue of the several acts for the admission of the aforesaid States into the Union.

For surveying the public lands of the United States, one hundred and sixty thousand dollars.

For expenses attending the occupancy of the new Executive buildings, including fuel, furniture, and other incidental expenses, twenty-three thousand two hundred and ninety-seven dollars fifty-nine cents.

For covering with slate the two Executive buildings now occupied by the State, Treasury, War and Navy Departments, ten thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, six thousand dollars.

For additional compensation allowed to the clerks in the office of the Superintendent of Indian Trade, per act of twentieth April, eighteen hundred and eighteen, four hundred and fifty dollars.

For compensation to the clerks in the office of the Commissary General of Purchases, two thousand eight hundred dollars.

For compensation to the messenger in said office, three hundred and sixty dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, nine hundred and thirty dollars.

For allowance to the clerks in the office of the Commissary General of Subsistence, two thousand one hundred and fifty dollars.

For the contingent expenses of said office, two thousand seven hundred dollars.

For salaries to the Ministers of the United States to London, Paris, St. Petersburg, Rio Janeiro, and Madrid, with the salaries of their several Secretaries of Legation, and the salary of a *Chargé des Affaires* at the Hague and at Stockholm, and for the usual allowance of three months' salary to the Minister at Stockholm, payable on his return home, sixty-six thousand two hundred and fifty dollars.

For outfit for a Minister Plenipotentiary at Rio Janeiro, and Madrid, and also for the *Chargé des Affaires* at London, the Hague, and Stockholm, thirty-one thousand five hundred dollars.

For the contingent expenses of the missions aforesaid, ten thousand dollars.

For a deficiency in the appropriations of former years, for the payment of expenses on foreign intercourse, including losses on drafts, and the difference of exchange, twenty-five thousand dollars.

For the contingent expenses of intercourse between the United States and foreign nations, thirty thousand dollars.

For the expenses of intercourse with the Barbary Powers, forty-two thousand dollars.

For the expenses, during the present year, for carrying into effect the fifth, sixth, and seventh, articles of the treaty of peace, concluded with His Britannic Majesty on the 24th day of December, one thousand eight hundred and fourteen, including the compensation of the commissioners, agents, and surveyors, and their contingent expenses, forty thousand dollars.

For the salaries of the agents for claims on account of spoiliations, and for seamen, at London and at Paris, four thousand dollars.

For the relief of distressed American seamen in foreign countries, eighty thousand dollars.

For cost of paper, engraving, and printing certificates of registry, and lists of crews for vessels of the United States, per provisions of the act of third March, eighteen hundred and thirteen, five thousand dollars.

To indemnify the insurers of the British ship *Brio de Mar*, taken and burnt by the *Peacock*, after the period fixed by the Treaty of Ghent for the termination of hostilities between the United States and Great Britain and her dependencies, fifteen thousand dollars.

For the second payment to John Trumbull, for paintings, agreeably to his contract with the Secretary of State, made in pursuance of a resolution of Congress, of the sixth of February, eighteen hundred and seventeen, six thousand dollars.

To indemnify the owners and underwriters of the British ship *Union*, Captain Robert Hall, taken and burnt by the American ship of war *Peacock*, after the period fixed by the Treaty of Ghent for the termination of hostilities between the United States and Great Britain and her dependencies, sixty-one thousand four hundred and fifty-one dollars.

For enabling the Secretary of the Treasury to repay to John G. Brown, of New Brunswick, the amount of a forfeiture remitted by Mr. Dallas, while Secretary of the Treasury, a sum not exceeding two hundred and twenty-eight dollars, shall be, and the same is hereby, appropriated.

For carrying into effect a resolution directing a survey of certain parts of the coast of North Carolina, passed December the twenty-fourth, one thousand eight hundred and eighteen, the sum of five thousand dollars shall be, and the same is hereby, appropriated.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid, and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," and out of any moneys not otherwise appropriated.

Approved, March 3, 1819.

An Act for the relief of Phebe Stuart.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, directed to place on the pension list, Phebe Stuart, widow of James Stuart,



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deceased, under the provisions of an act, passed the sixteenth day of April, one thousand eight hundred and sixteen, making provision for the widows and orphans of the militia who had died in the service of the United States.

Approved, March 3, 1819.

An Act in behalf of the Connecticut Asylum for the Deaf and Dumb.

*Be it enacted, &c.,* That there be granted to the Connecticut Asylum for the education and instruction of deaf and dumb persons, a township of land, or a tract of land equal thereto, to be located, under the direction of the Secretary of the Treasury, in tracts of not less than four entire sections each, in any of the unlocated lands of the United States to which the Indian title has been extinguished; which land shall be and forever remain to the use of said asylum, for the education and instruction of deaf and dumb persons; or, if said asylum shall sell said land, which they are authorized to do, the money arising from such sale shall be and remain forever to the same use.

Approved, March 3, 1819.

An Act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service.

*Be it enacted, &c.,* That, in all cases where provision has been made by law for five years half-pay to the widows and children, of officers, seamen, and marines, who were killed in battle, or died of wounds received in battle, or who died in the naval service of the United States, during the late war, the said provision shall be continued for the additional term of five years, to commence at the end of the first term of five years, in each case, respectively, making the provision equal to ten years half-pay: which shall be paid in the manner, and out of the fund, heretofore designated by law; and the said pensions shall also cease for the reasons mentioned in the said law.

Approved, March 3, 1819.

An Act for the relief of Hannah Ring and others.

*Be it enacted, &c.,* That the act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war, passed the eighteenth day of March, eighteen hundred and eighteen, shall be construed to authorize the Secretary of War to place on the pension list Jonathan Ring, a soldier in the Revolutionary war, now insane, of the date of the 11th day of July, eighteen hundred and eighteen, and that the receipt of Hannah Ring, his wife, during his insanity, shall be sufficient for the pension allowed by the said act.

*Sec. 2. And be it further enacted,* That the said act shall be also construed to authorize the Secretary of War to place on the pension list John Frink, a soldier in the Revolutionary war, now insane, of the date of the first of May, eighteen hundred and eighteen, and that the receipt of Lu-

ther Frink, his son, shall be sufficient for the pension allowed by the said act.

*Sec. 3. And be it further enacted,* That the said act shall be also construed to authorize the Secretary of War to place on the pension list Abraham Edwards, a mariner in the Revolutionary war, now insane, of the date of the first of July, eighteen hundred and eighteen, and the receipt of Joseph Edwards, his son, shall be sufficient for the pension allowed by this act.

*Sec. 4. And be it further enacted,* That the said act shall be also construed to authorize the Secretary of War to place on the pension list Thomas Lucas, a soldier in the Revolutionary war, now insane, of the date of the fourteenth of January, eighteen hundred and nineteen, and that the receipt of the wife of the said Thomas Lucas, or his guardian, shall be sufficient for the pension allowed by the said act.

Approved, March 3, 1819.

An Act to provide for the due execution of the laws of the United States within the State of Illinois.

*Be it enacted, &c.,* That the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Illinois as elsewhere within the United States.

*Sec. 2. And be it further enacted,* That the said State shall be one district, and be called the Illinois district. And a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold at the seat of government of the said State two sessions annually, on the first Mondays in May and December; and he shall in all things have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act, entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside and keep the records of the court at the place of holding the same, and shall receive for the services performed by him the same fees to which the clerk of the Kentucky district is entitled for similar services.

*Sec. 3. And be it further enacted,* That there shall be allowed to the judge of the said district court the annual compensation of one thousand dollars, to commence from the date of his appointment, to be paid quarter-yearly at the Treasury of the United States.

*Sec. 4. And be it further enacted,* That there shall be appointed in the said district a person learned in the law to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars, as a full compensation for all extra services.

*Sec. 5. And be it further enacted,* That a marshal be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed to marshals in other

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districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

Approved, March 3, 1819.

An Act supplementary to the act, entitled "An act to authorize the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make the turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof.

*Be it enacted, &c.,* That the law of the State of Maryland, entitled "A supplement to an act, entitled 'An act to incorporate a company to make a turnpike road from the line of the District of Columbia, where it crosses the post road leading from Georgetown to Fredericktown, through Montgomery and Frederick counties, to Fredericktown,'" passed in the year one thousand eight hundred and eighteen, be, and the same is hereby declared to be, in full force within the District of Columbia.

Approved, March 3, 1819.

An Act to alter and establish certain Post Roads.

*Be it enacted, &c.,* That the following post roads be, and the same are hereby, discontinued—that is to say:

From Brunswick, by Topsham, to Starbird's corner, in Bowdoin, in Maine.

From Plymouth, by Carver and Plympton, to Middleborough, and from Medford to Reading, in Massachusetts.

From Worthington to Urbana, in Ohio.

From Hagerstown, in Maryland, to McConnells-town, in Pennsylvania.

From Currituck Courthouse to Knott's Island, in North Carolina.

Sec. 2. *And be it further enacted,* That the following be established post roads—that is to say:

*In New Hampshire*—From Sanborntown bridge, through Gilmantown, by the house of Judge Badger and New Durham bridge to the post office in Farmington.

From Boston, in Massachusetts, on the Medford, Andover, and Londonderry turnpike roads, and over Isle of Hookset bridge, to Concord, in New Hampshire.

From Bartlett, in New Hampshire, to Fryeburg, in Maine.

From Warner, by Sutton and New London, to Stickney's Inn, in Springfield.

From Washington, by Leinster and Unity, to Claremont.

From Concord, in Rockingham county, by London, Pittsfield, Gilmanton Iron-works, Alton, and Wolfesborough, to Tuftonborough.

From Franconia, by Littleton village, to Littleton bridge.

*In Vermont*—That the post road from Danville to Lancaster pass by Littleton bridge.

From Barnet, by Waterford village, at Mann's store, to Concord.

From Jamaica, by Winhall, to Manchester.

From Richford to Berkshire, in the county of Franklin.

*In Maine*—From Freeport, by Little River village, in Lisbon, to Starbird's corner, in Bowdoin.

That the post road from Parsonsfield to Effingham pass by Porter bridge.

That the post road from Portland to Fryeburg pass by Bridgetown and Denmark.

*In Massachusetts*—From the south parish of Bridgewater, by the Four Corners, in Middleborough, to New Bedford.

From Williamstown to Hancock.

From the house of Thomas B. Harrub, in Plympton, by Carver, to Wareham.

From Worcester, by West Boylston, Westminster, and Gardner, to Templeton.

From Falley's cross-roads, in Chester, by Norwich and Westhampton, to Northampton.

From Concord, by Harvard, Shirley, Lunenburg, Fitchburg, and Ashburnham, to Winchendon.

From Worcester, by West Boylston, Princeton, Westminster, and Gardner, to Templeton.

From the head of Accushnet river to the village of Fairhaven.

*In Connecticut*—From Winstead, by Colebrook central meeting-house, Sandisford, and Otis west meeting-house and Tyringham, to Stockbridge, in Massachusetts.

From Colchester, by Hebron, Andover, and Coventry, to Tolland.

From Lebanon, by Windham and Hampton, to Woodstock.

From Litchfield, by Goshen, East street, to Norfolk.

*In New York*—From Albany, by Spencer-town, to Sheffield, in Massachusetts.

From Troy, on the Hoosick road, by Brunswick, Grafton, and Petersburg, to Williamstown, in Massachusetts.

From the city of Schenectady to Utica, on the south side of the Mohawk river.

From Cherry Valley, by Long Patent, Westford, and Decatur, to Worcester.

From Great Bend, Pennsylvania, by Harmony and Windsor, to Deposit.

From Troy, by Brunswick and Greenbush, to Sand Lake.

From Cambridge, by Hoosick, Petersburg, Berlin, and Stephentown, to Lebanon.

From Waterford, by Orange, to Ballston.

From Pine Plains, on the Ulster and Delaware turnpike, to North Amenia.

From Waterloo to Port Glasgow, by Clyde village, town of Galen.

From the village of Peekskill, by Crumpond, to Somerstown, in the county of West Chester.

From South Nunda, by McClure's to Ellicottville, in the county of Cataraugus.

*In New Jersey*—From Newton, in Sussex county, by Stillwater, Marksborough, Butt's bridge, to Columbia glass manufactory, on the Delaware river.

From Baskenridge, by Liberty Corner, to Doughty's mills, in Morris county.

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From the city of New York, across Staten Island, by the Richmond and Woodbridge turnpike roads, to New Brunswick.

*In Pennsylvania*—From Fannetsburg, in Franklin county, by Mifflintown, McAllistertown, and Stroupstown, to Selinsgrove.

From New Bedford to New Castle.

That the mail from Chambersburg to Huntington, return by Trough Creek, Three Springs Valley, and Fort Littleton, to the Burnt Cabins.

From Allentown, by McKeansburg, Orwigsburg, and Hamburg, to Cootstown.

That the mail from Washington to New Lisbon, pass on from Bricelands, by Manchester, and from thence by Hookstown, Georgetown, and Little Beaver Bridge.

From the Yellow Springs, in Huntingdon county, by Williamsburg and Martinsburg, to Bloody Run.

That the post road from Womelsdorf to Sunbury, pass by Gratz.

From Easton, by the Wind Gap, Hamilton, Pocono, Sterling, Salem, Canaan, and Mount Republic, to Mount Pleasant.

From Mount Republic to the Courthouse in Bethany.

From Halifax, in Dauphin county, to Sunbury, in Northumberland county, on the east side of the Susquehannah river.

From Greensburg, by Salem cross-roads, Crawford's mills, Freeport, Kittanning Courthouse, Woodward's mills, Indiana Courthouse, Conomaugh salt-works and New Alexandria, to Greensburg.

From Chester, in Delaware county, by Newtown, Spread Eagle, and King of Prussia, to Norristown, in Montgomery.

From Philadelphia, by Merion, Mill Creek, Gulf Mills, Lowry, Elliott's, and Mason's tavern, to Kimberton.

*In Maryland*—From Hancock to Bath, in Berkeley county, in Virginia.

From Port Tobacco, by Bryantown, to Benedict.

That the mail pass on the turnpike road between Hagerstown and Cumberland.

From Bladensburg to Magruder's tavern, in Maryland.

From Fredericksburg, by Cartersville, Cumberland Courthouse, Prince Edward Courthouse and Halifax Courthouse, in Virginia, by Milton, Salisbury, and Charlotte, in North Carolina, by York Courthouse, Pinckneyville, Union Courthouse, Lawrence Courthouse, and Abbeville Courthouse, in South Carolina; and by Petersburg, Washington, Powelton, and Sparta, to Milledgeville, in Georgia.

*In Virginia*—From Bowling Green, in Caroline county, by Golansville, to Oxford.

That the post road called the Three Notched Road, from Richmond to Milton, shall pass by Price's store, N. J. Poindexter & Co.'s store, and Dobb's store.

From Morgantown, by Barnes's mill and Shinston, to Clarksburg.

From Moorfield's, by Smith's and the German settlement, to Kingwood.

From Preston to Howell's mill on the Little Kenhawa.

From Petersburg, by Moody's, Bevil's bridge, Amelia Courthouse, Painesville, and Jameston, to Farmville, in the county of Prince Edward.

From York to Warwick.

From Kempsville to London bridge.

From Great bridge, by Blackwater, to Knott's Island, North Carolina.

From Lewisburg, by Nicholas Courthouse, to Charleston, in Kenhawa county.

From Perkinsonville, in Amelia county, by Jennings' Ordinary, in Nottoway, Miller's tavern, and Moore's Ordinary, in Prince Edward county, and Key's tavern, in Charlotte county, to Charlotte Courthouse.

From Hanover Courthouse to Taylorsville, in the county of Hanover.

From Lynchburg to the store of Richard Davis, in Bedford county.

*In North Carolina*—From Rutherfordton, by Mumford's Cove and Harmonville, to Mackeysville, in Burk county.

From Lumberton, by Philadelphus, McPhaulsville, Montpelier, McEachin's bridge, Cowper Hill, Stewartsville, Queensdale, and Alfordsville, to Lumberton.

From Haywood Courthouse, at Waynesville, to Houghtonville, in South Carolina.

From Newbern, by Tilman's mill, to Bay river.

From Tarboro' to Williamstown.

From Louisburg, by Haysville and Healthseat, to Oxford.

From Ashville, North Carolina, to Pendleton Courthouse, in South Carolina.

From Knott's Island, by Kempsville, to Norfolk, in Virginia.

From Statesville, by Campbell's Grove, to Morgantown.

From Salem, North Carolina, by Perkins, Good Spur, and Poplar Camp, to Wythe Courthouse, Virginia.

From Oxford, in Granville county, to Louisburg, in the county of Franklin.

From Chapel Hill, in Orange county, to Lexington, in the county of Rowan.

*In South Carolina*—From Parker's Ferry, by Walterboro, to Barnwell Courthouse.

From Columbia, by Lexington, Edgefield, Newbury, and Laurens, to Greenville Courthouse.

From Adam Eifert's, by Mount Willing, R. Coleman's, William Wilson's, Charles Chappel's, on Saluda river, J. Cook's store, and H. Gray's, to Greenville.

From John Thompson's, jr., in Marion district, by Richard Howard's, to Godfrey's Ferry, on Big Pee-Dee river.

From York Courthouse, by Fullenwider's store, at Gordan's Old Place, to Lincolnton, in North Carolina; and from thence to Morgantown.

*In Georgia*—From Milledgeville, by Bollin's ferry, Devereaux, Baxter's bridge, and Greensboro', to Athens.

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From Port Hawkins, by Clinton and Monticello, to Madison.

*In Ohio*—From Dresden, by Washington cross roads, West Bedford and Darling's, to Mansfield.

From Berkshire, by Delaware, to Urbana.

From Ravenna, by Rootstown and Randolph, to Canton.

From Newark to Mount Vernon.

From Urbana to the county seat in Logan county.

From Columbus, by Urbana and Piqua, to Greenville.

From Troy, by Piqua, St. Mary's, Fort Wayne, and Fort Defiance, to Fort Meigs.

From Zanesville, by Plainfield, to White Eyes Plains, on the east side of the Muskingum.

From Wellsburg, Virginia, by Philipsburg and Smithfield, to Cadiz.

From New Lexington to Greenville.

From Coshocton, by Mechanicstown and Millersburg, to Wooster.

From Piqua to Hardin, in Shelby county.

From Hamilton, by Oxford, Dover, Eaton, and New Paris, to Greenville.

From Cadiz to Rumby.

*In Kentucky*—From Cattlesburg, by the mouth of Blaine creek, and the mouth of Louisa, Fork of Sandy, to Floyd Courthouse.

From Lexington, by the way of the Burnt Tavern, to Lancaster.

From Princeton, by Bellsford, to Madisonville.

From Falmouth to Neville, in Ohio.

From Millersburg, by Ruddel's mill, to Cynthiana.

From Louisville, by Mount Vernon, Fairfield, and Bloomfield, to Springfield.

From Greensburg, by Monroesville, to Glasgow.

From Newburg, by Ewingsville and Trenton, to Port Royal, in Tennessee.

From Trenton, in Christian county, to Clarksville.

That the mail from Glasgow to Berksville, shall pass by Martinsburg.

From Tompkinsville, by Martinsburg, to Burksville.

*In Tennessee*—From Clinton, by Morgan Courthouse, to Burksville, in Kentucky.

From Columbia, in Maury county, to Waynesboro', in Wayne county.

From the Boat Yard, by Embree's iron works, to Jonesborough.

*In Indiana*—From Princeton, by Columbia, Petersburg, and the seat of justice in Dubois county, to Paoli.

From Vincennes, by Palestine, to York, in Illinois.

From Lexington to Vernon.

From Jeffersonville, by Greenville, Fredericksburg, Paoli, and Washington, to Vincennes.

From Vincennes, by Carlisle and Belville, in Illinois, to St. Louis, in the Missouri Territory.

From Jacksonborough, in the county of Wayne, to the county seat for Randolph county.

From Lawrenceburg, in Indiana, to Petersburg and Burlington, in Kentucky.

From Brookville to Vernon; thence, by Brownstown and Salem, to Geneva.

From Corydon, by Mount Sterling, Portersville, Petersburg, and Columbia, to Princeton.

From Elizabeth, Hardin county, Kentucky, by Fredonia, and Mount Sterling, to Paoli, in Indiana.

*In Illinois*—From Edwardsville, by Alton, to St. Charles, in the Missouri Territory; and from Edwardsville, by Ripley, to Perrysville.

That the post road from Vincennes to Shawneetown, pass by the English Prairie, or section No. 10, of township No. 2, range 10, east.

From Vincennes, by Palestine, to York, in Illinois.

*In Mississippi*—From Winchester, by Green Courthouse, Fords on Pearl River, Marion Courthouse, Holmesville, and Liberty, to Woodville.

From Port Gibson, by Franklin Courthouse and Liberty, to Madisonville, in the State of Louisiana.

*In the Missouri Territory*—From St. Charles, by Clark's Fort, Stout's Fort, Lincoln Courthouse, and Clarksville, to Louisiana, at the mouth of Salt River, in Pike county.

From St. Charles, by Montgomery Courthouse, to Howard Courthouse.

From St. Louis, by Franklin Courthouse, Cooper Courthouse, to Howard Courthouse.

From Cadron, by Pulaski Courthouse, Little Rock, Clark Courthouse, and Hempstead Courthouse, to Washita Courthouse, in Louisiana.

From Franklin Courthouse to Montgomery Courthouse.

From St. Michael, by the seat of justice in Wayne county, to Hix's Ferry.

From Jackson, to the seat of justice in Wayne county.

From St. Louis, by Belle Fontain, and Portage de Sioux, to the seat of justice in Lincoln county.

From Potosi, by Bellevue, to Murphy's Settlement.

*In the Alabama Territory*—From Huntsville, to Moorsville, in Limestone County.

From Cahaba to St. Stephens.

From Burnt Corn Springs, Monroe county, by Blakely, to Mobile, in Mobile county.

From Cahaba to Tuskalooa.

From Huntsville, in Alabama Territory, by Shelbyville and Fayetteville, to Murfreesborough, in Tennessee.

SEC. 3. *And be it further enacted*, That the military road commenced by the troops of the United States, under the command of General Jackson, and leading from Huntsville, in the Alabama Territory, to Madisonville, in the State of Louisiana, be established a post route when the same shall be completed.

Approved, March 3, 1819.

An Act further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon.

*Be it enacted, &c.*, That the operation of the sixth condition of the fifth section of the act,

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entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States northwest of the Ohio, and above the mouth of Kentucky river,' be, and the same is hereby, suspended until the thirty-first day of March, one thousand eight hundred and twenty, in favor of the purchasers of public lands at any of the land offices of the United States: *Provided*, That the benefit of this act shall not be extended to any one purchaser for a greater quantity than six hundred and forty acres of land.

Approved, March 3, 1819.

An Act to enforce those provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors, and for other purposes.

*Be it enacted, &c.*, That, in all elections of directors of the Bank of the United States, hereafter to be held, under, and by virtue of, the "Act to incorporate the subscribers to the Bank of the United States," whenever any person shall offer to the judges of such elections more than thirty votes in the whole, including those offered in his own right, and those offered by him as attorney, proxy, or agent, for any others, the said judges of the elections, or any one of them, are hereby authorized and required to administer to the said person, so offering to vote, the following oath or affirmation, viz:

I, —, do solemnly swear, (or affirm, as the case may be,) that I have no interest, directly or indirectly, in the shares upon which I shall vote at this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly, and in good faith, owned by the persons in whose names they now stand; and that, in voting at this election, I shall not, in any manner, violate the first fundamental article of the "Act to incorporate the subscribers to the Bank of the United States." And the said judges of elections, or any one of them, shall be authorized and empowered, in their discretion, or at the instance of any stockholder of the bank, to administer the said oath or affirmation to any person offering to vote at any such election.

Sec. 2. *And be it further enacted*, That no person shall be entitled to vote at any such election, as attorney, proxy, or agent, for any other person, copartnership, or body politic, without a power, for that purpose, being duly executed, in the presence of a witness, and filed in the bank, and on which power shall be endorsed the oath or affirmation of the person, or one of the copartners, or of the head, or some of the officers, of the body politic granting such power, in the words following: "I —, do solemnly swear, (or affirm, as the case may be,) that I am (or that the copartnership, consisting of myself and —, are, or that the corporation known by the name of —, is, as the case may be, (truly, and in good faith, the owner, (or owners, as the case may be,) of the shares in the capital stock of the Bank of the United States, specified in the within power of attorney, and of no other shares,

that no other person has any interest in the said shares, directly or indirectly, except as stated in the said power; and that no other power has been given to any person which is now in force, to vote for me (or for the copartnership aforesaid, or for the body politic aforesaid, as the case may be,) at any election of directors of the said bank;" which oath or affirmation may be taken before a notary public, judge, or justice of the peace, and shall be certified by him.

Sec. 3. *And be it further enacted*, That if the judges of any election of directors, to be held as aforesaid, shall permit any person to give more than thirty votes, in the whole, at any such election, without the said person's having taken the aforesaid oath or affirmation, or shall suffer any person whatever to vote as attorney, agent, or proxy, for any other person, or for any copartnership, or body politic, without a power for that purpose, as prescribed in the foregoing section, with the oath or affirmation and certificate aforesaid; such of the said judges as shall consent thereto, shall severally be deemed guilty of a misdemeanor, and, on due conviction thereof, shall be subject to a fine not exceeding two thousand dollars, or to imprisonment not exceeding one year, at the discretion of the court before which such conviction shall be had. And if any person shall wilfully and absolutely swear or affirm falsely, in taking any oath or affirmation prescribed by this act, such person so offending, shall, upon due conviction thereof, be subject to the pains and penalties which are by law prescribed for the punishment of wilful and corrupt perjury.

Sec. 4. *And be it further enacted*, That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present, or reward, or any promise, contract, obligation, or security, for the payment or delivery of any money, present, or reward, or anything to obtain or procure the opinion, vote, or interest, of the president of the Bank of the United States, or either of the directors thereof, or the president or a director of either of the branches of the said bank, in any election, question, matter, or thing, which shall come before the said president and directors for decision, in relation to the interest and management of the business of said bank, and shall be thereof convicted; such person or persons, so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe, as aforesaid, and the president or director who shall in anywise, accept or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court, and shall forever be disqualified to hold any office of trust or profit under the said corporation, and shall, also, forever be disqualified to hold any office of honor, trust, or profit, under the United States.

Approved, March 3, 1819.

An Act in addition to "An act concerning tonnage and discriminating duties in certain cases."

*Be it enacted, &c.*, That the act passed on the twentieth of April, one thousand eight hundred

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and eighteen, entitled "An act concerning tonnage and discriminating duties in certain cases," be, and the same hereby is, extended, in all its provisions and limitations, to the vessels of Prussia, of the city of Hamburg, and of the city of Bremen.

SEC. 2. *And be it further enacted*, That the act passed on the third of March, eighteen hundred and fifteen, entitled "An act to repeal so much of the several acts imposing duties on the tonnage on [of] ships and vessels, [and on goods, wares, and merchandise, imported into the United States, as imposes a discriminating duty on tonnage between foreign vessels] and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States," and also the act to which this is an addition, together with this act, shall cease and expire on the first day of January, eighteen hundred and twenty-four.

Approved, March 3, 1819.

An Act to protect the commerce of the United States, and punish the crime of piracy.

*Be it enacted, &c.*, That the President of the United States be, and he hereby is, authorized and requested to employ so many of the public armed vessels, as, in his judgment, the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States and their crews from piratical aggressions and depredations.

SEC. 2. *And be it further enacted*, That the President of the United States be, and hereby is, authorized to instruct the commanders of the public armed vessels of the United States to subdue, seize, take, and send into any port of the United States, any armed vessel or boat, or any vessel or boat, the crew whereof shall be armed, and which shall have attempted or committed any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, or upon any other vessel; and also to retake any vessel of the United States, or its citizens, which may have been unlawfully captured upon the high seas.

SEC. 3. *And be it further enacted*, That the commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel owned as aforesaid, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States; and may subdue and capture the same; and may also retake any vessel, owned as aforesaid, which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.

SEC. 4. *And be it further enacted*, That whenever any vessel or boat, from which any piratical aggression, search, restraint, depredation, or seizure, shall have been first attempted or made,

shall be captured and brought into any port of the United States, the same shall and may be adjudged and condemned to their use, and that of the captors, after due process and trial, in any court having admiralty jurisdiction, and which shall be holden for the district in which such captured vessel shall be brought; and the same court shall thereupon order a sale and distribution thereof accordingly, and at their discretion.

SEC. 5. *And be it further enacted*, That if any person or persons whatsoever, shall, on the high seas, commit the crime of piracy, as defined by the law of nations, and such offender or offenders shall afterwards be brought into, or found in, the United States, every such offender or offenders shall, upon conviction thereof before the circuit court of the United States for the district into which he or they may be brought, or in which he or they shall be found, be punished with death.

SEC. 6. *And be it further enacted*, That this act shall be in force until the end of the next session of Congress.

Approved, March 3, 1819.

An Act to continue in force for a further term the act entitled "An act for establishing trading-houses with the Indian tribes," and for other purposes.

*Be it enacted, &c.*, That the act entitled, "An act for establishing trading-houses with the Indian tribes," passed on the second day of March, one thousand eight hundred and eleven, and which was, by subsequent acts, continued in force until the first day of March, one thousand eight hundred and nineteen, shall be, and the same is hereby, further continued in force until the first day of March, one thousand eight hundred and twenty, and no longer.

SEC. 2. *And be it further enacted*, That the President of the United States shall have power, and he is hereby authorized, in every case where he shall judge it expedient, to transfer any of the Indian agents, whose compensation was fixed by the act, entitled "An act fixing the compensation of Indian agents and factors," from the places designated by the said act, for the discharge of their duties, respectively, to such other places as the public service may require; and shall also have power to appoint, by and with the consent and advice of the Senate, an Indian agent for the Upper Missouri, whose annual compensation shall be one thousand eight hundred dollars.

Approved, March 3, 1819.

An Act regulating the payments to Invalid Pensioners.

*Be it enacted, &c.*, That in all cases of application for the payment of pensions to invalids, under the several laws of Congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility, as such, shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such dis-

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ability at the time of making the affidavit, shall accompany the application of the first payment which shall fall due after the fourth day of March next, and at the end of every two years thereafter; and if, in a case of a continued disability, it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause, which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment: *And provided also*, That this act shall not extend to the invalids of the Revolution, who have been, or shall be, placed on the pension list pursuant to an act of Congress, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war," approved the eighteenth day of March, in the year of our Lord one thousand eight hundred and eight.

Approved, March 3, 1819.

An Act to regulate the duties on certain Wines.

*Be it enacted, &c.*, That, from and after the thirtieth day of June, one thousand eight hundred and nineteen, the duties now by law levied, collected, and paid, on wine not enumerated in the "Act to regulate the duties on imports and tonnage," passed the twenty-seventh day of April, one thousand eight hundred and sixteen, when imported in bottles or cases, of seventy cents per gallon, and on wine not enumerated in said act, when imported otherwise than in bottles or cases, of twenty-five cents per gallon, shall cease and determine; and there shall be levied, collected, and paid, in lieu thereof, the several and specific duties hereinafter mentioned; that is to say, on wines not enumerated in the act aforesaid, when imported in bottles or cases, thirty cents per gallon, and when imported otherwise than in bottles or cases, fifteen cents per gallon.

*Sec. 2. And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified, and imposed upon the several goods, wares, and merchandise, aforesaid, which, after the said thirtieth day of June, one thousand eight hundred and nineteen, shall be imported in ships or vessels not of the United States: *Provided*, That this additional duty shall not apply to such goods, wares, and merchandise, imported in ships or vessels not of the United States, entitled by treaty, or by any act or acts of Congress, to be entered in the ports of the United States, on the payment of the same duties as are paid on goods, wares, and merchandise, imported in ships or vessels of the United States.

*Sec. 3. And be it further enacted*, That there shall be allowed a drawback of the duties by this act imposed on goods, wares, and merchandise, imported into the United States, upon the exportation thereof, within the time, and in the man-

ner, prescribed in the fourth section of the act, entitled "An act to regulate the duties on imports and tonnage," passed on the twenty-seventh day of April, one thousand eight hundred and sixteen.

*Sec. 4. And be it further enacted*, That the existing laws shall extend to, and be in force for, the collection of the duties, imposed by this act on goods, wares, and merchandise, imported into the United States; and for the recovery, collection, distribution, and remission, of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing, in the existing laws contained, had been inserted in, and re-enacted by this act.

*Sec. 5. And be it further enacted*, That wines and distilled spirits, imported and deposited in the public stores, under the direction of the surveyor, in the manner prescribed by the "Act providing for the deposit of wines and distilled spirits in public warehouses," passed the twentieth April, one thousand eight hundred and eighteen, may be transported coastwise, from the public warehouses in one district, to those in another district, under such regulations as the Secretary of the Treasury may prescribe, without loss of debenture.

Approved, March 3, 1819.

An Act respecting the location of certain sections of land to be granted for the seat of government in the State of Indiana.

*Be it enacted, &c.*, That, instead of four sections, provided to be located under the direction of the Legislature of the State of Indiana, and to be granted for the purpose of fixing thereon the seat of government for that State, it shall be lawful to locate, for that purpose, under the direction of the Legislature aforesaid, any contiguous quarter sections, fractions, or parts of sections, not to exceed, in the whole, the quantity contained in four entire sections: Such locations shall be made before the commencement of the public sales of the adjoining and surrounding lands, belonging to the United States.

Approved, March 3, 1819.

An Act making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings.

*Be it enacted, &c.*, That there be appropriated for finishing the wings of the Capitol, in addition to the sums already appropriated, the further sum of fifty-one thousand three hundred and thirty-two dollars.

For erecting the centre building of the Capitol one hundred and thirty-six thousand six hundred and forty-four dollars.

For finishing the gates, the iron railing, and the enclosure north of the President's house, five thousand three hundred and forty-four dollars.

For enlarging the offices west of the President's house, eight thousand one hundred and thirty-seven dollars.

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For purchasing a lot of land, and for constructing pipes, for supplying the Executive offices and President's house with water, nine thousand one hundred and twenty-five dollars.

Which said several sums of money, hereby appropriated, shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the several sums hereby appropriated, shall be expended under the direction of the President of the United States.

Approved, March 3, 1819.

An Act making provision for the civilization of the Indian tribes adjoining the frontier settlements.

*Be it enacted, &c.*, That, for the purpose of providing against the further decline and final extinction of the Indian tribes, adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby, authorized, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing, and arithmetic, and for performing such other duties as may be enjoined, according to such instructions and rules as the President may give and prescribe for the regulation of their conduct, in the discharge of their duties.

SEC. 2. *And be it further enacted*, That the annual sum of ten thousand dollars be, and the same is hereby, appropriated, for the purpose of carrying into effect the provisions of this act; and an account of the expenditure of the money, and proceedings, in execution of the foregoing provisions, shall be laid annually before Congress.

Approved, March 3, 1819.

An Act explanatory of the act, entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri."

*Be it enacted, &c.*, That the provisions of the fifth section of the act of Congress, entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri," passed the twelfth day of April, one thousand eight hundred and fourteen, shall be so construed as to extend to the citizens of the county of Howard, in the Missouri Territory, as established by the act of the Legislature of the Territory, passed the twenty-third day of January, one thousand eight hundred and sixteen, any construction to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the right of pre-emption given by the aforesaid provisions, as explained and extended by this act, shall not be so construed as to affect any right derived from the United States, by purchase, at public or private sale, of the lands claimed under the aforesaid act.

SEC. 3. *And be it further enacted*, That any person or persons who have settled on, and improved, any of the lands in the said Territory, reserved for the use of schools, before the survey of such lands were actually made, and who would have had the right of pre-emption thereto by the existing laws had not the same been so reserved, shall have the right of pre-emption thereto, under the same terms and conditions, and subject to the same restrictions, provided for other cases of a right of pre-emption in said Territory; and the register of the land office, and receiver of public moneys, for the district, shall have power to select any other vacant and unappropriated lands, in the same township, and as near adjacent as lands of equal quantity and like quality can be obtained, in lieu of the section, or parts of a section, which shall have been entered in right of pre-emption, according to the provision of this section.

Approved, March 3, 1819.

An Act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned.

*Be it enacted, &c.*, That, for the purpose of carrying into effect a treaty between the United States and the Wyandot, Seneca, Delaware, Shawanee, Pattawatima, Ottawa, and Chippewa, tribes of Indians, concluded at the foot of the Rapids of the Miami of Lake Erie, on the twenty-ninth day of September, eighteen hundred and seventeen, and the supplementary treaty concluded with said tribes, at St. Mary's, in the State of Ohio, on the seventeenth of September, eighteen hundred and eighteen, the following sums be, and the same are hereby, appropriated, in conformity with the stipulations contained in said treaty and supplement, to wit:

The sum of thirteen thousand three hundred dollars, for the payment of the annuities granted to said tribes, in the manner and proportions following:

To the Wyandot tribe, annually, forever, at Upper Sandusky, four thousand five hundred dollars.

To the Seneca tribe, annually, forever, at Lower Sandusky, one thousand dollars.

To the Shawanee tribe, annually, forever, at Wapaghkonetta, two thousand dollars.

To the Shawanees and Senecas of Lewistown, annually, forever, one thousand dollars.

To the Pattiwatimas, annually, for fifteen years, at Detroit, one thousand three hundred dollars.

To the Ottawas, annually, for fifteen years, at Detroit, one thousand dollars; and the further annual sum of one thousand five hundred dollars, forever.

To the Chippewa tribe, annually, for fifteen years, at Detroit, one thousand dollars.

And the sum of three thousand dollars, to be paid in the course of the year eighteen hundred and eighteen, to the Delaware and Wyandot tribes, to wit:

To the Delaware tribe, at Wapaghkonetta, five hundred dollars.



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To the Wyandot tribe, two thousand five hundred dollars.

For the payment of the amount of damages, assessed by authority of the Secretary of War, in favor of several tribes and individuals of Indians, whose property was injured or destroyed during the late war, fourteen thousand four hundred and eighty dollars thirteen cents; to be paid in the manner following:

To the Wyandots, at Upper Sandusky, four thousand three hundred and nineteen dollars thirty-nine cents.

To the Senecas, at Lower Sandusky, three thousand nine hundred and eighty-nine dollars twenty-four cents.

To the Indians at Lewis and Scoutash towns, one thousand two hundred and twenty-seven dollars fifty cents.

To the Delawares, for the use of the Indians who suffered losses at Greentown, and at Jeromestown, at Wapaghkonetta, three thousand nine hundred and fifty dollars and fifty cents.

To the representatives of Hembis, a Delaware Indian, at Wapaghkonetta, three hundred and forty-eight dollars and fifty cents.

To the Shawanees, an additional sum, at Wapaghkonetta, of four hundred and twenty dollars.

To the Senecas, an additional sum, at Wapaghkonetta, of two hundred and nineteen dollars.

Sec. 2. *And be it further enacted*, That, for the purpose of carrying into effect the treaty between the United States and the Chickasaw nation of Indians, concluded on the nineteenth of October, eighteen hundred and eighteen, the following sum be, and the same is hereby, appropriated, in conformity with the stipulations contained in said treaty; that is to say:

To the Chickasaw nation, annually, for fifteen successive years, twenty thousand dollars.

Sec. 3. *And be it further enacted*, That, for the purpose of carrying into effect the treaties concluded at St. Mary's, in the State of Ohio, with the Wea tribe, on the second of October, eighteen hundred and eighteen; the Pattawatima tribe, on the second of October, eighteen hundred and eighteen; the Delaware tribe, on the third of October, eighteen hundred and eighteen; and with the Miami tribe, on the sixth of October, eighteen hundred and eighteen; the following sums be, and the same are hereby, appropriated, in conformity with the stipulations contained in said treaties; that is to say:

To the Wea tribe, the annual sum of one thousand eight hundred and fifty dollars; which sum, in addition to their former annuity of eleven hundred and fifty dollars, will make a sum total of three thousand dollars.

To the Pattawatima tribe, the annual sum of two thousand five hundred dollars.

To the Delaware tribe, the annual sum of four thousand dollars.

And a sum not exceeding thirteen thousand three hundred and twelve dollars twenty-five cents, to satisfy certain claims against the Delaware nation, stipulated to be paid by the United States, and to be expended by the Indian agent

at Piqua and Fort Wayne, agreeably to a schedule examined and approved by the commissioners.

To the Miami tribe, the annual sum of fifteen thousand dollars.

Sec. 4. *And be it further enacted*, That, for the purpose of carrying into effect the treaty concluded on the fourth [24th] of August, eighteen hundred and eighteen, with the Quapaw tribe of Indians; and the treaty concluded on the twenty-fifth September, eighteen hundred and eighteen, with the Peoria, Kaskaskia, Michigania, Cahokia, and Tamarois, tribes of the Illinois nation of Indians; the following sums be, and the same are hereby, appropriated, in conformity with the stipulations contained in the said treaties; that is to say:

To the Quapaw tribe, the sum of four thousand dollars, and the further annual sum of one thousand dollars.

To the Peoria, Kaskaskia, the Michigania, Cahokia, and Tamarois, tribes of the Illinois nation, the annual sum of three hundred dollars.

Sec. 5. *And be it further enacted*, That, for the purpose of carrying into effect the treaty concluded on the twenty-fifth of September, eighteen hundred and eighteen, with the Great and Little Osage nation of Indians, a sum, not exceeding four thousand dollars, be, and the same is hereby, appropriated, to satisfy claims of citizens of the United States, for property stolen or destroyed by the Osages, agreeably to the stipulation contained in said treaty.

Sec. 6. *And be it further enacted*, That, for the payment of the annuity granted to the Creek nation of Indians, by the treaty concluded near Fort Wilkinson, on the Oconee, the sixteenth of June, one thousand eight hundred and two, and for which no appropriation has heretofore been made, the annual sum of three thousand dollars be, and the same is hereby, appropriated; and that, for the purpose of carrying into effect the treaty concluded with said nation at the Creek agency, on the twenty-second day of January, one thousand eight hundred and eighteen, the further annual sum of ten thousand dollars, for the term of ten successive years, be, and the same is hereby, appropriated, conformably to the stipulations contained in the said treaty.

Sec. 7. *And be it further enacted*, That, for the purpose of carrying into effect sundry other stipulations, contained in several of the treaties hereinbefore mentioned, the sum of twenty-five thousand dollars be, and the same is hereby, appropriated.

Sec. 8. *And be it further enacted*, That there be appointed, agreeably to the ninth article of the treaty concluded with the Wyandot, Seneca, Delaware, Shawanee, Pattawatima, Ottawa, and Chippewa, tribes of Indians, on the twenty-ninth day of September, one thousand eight hundred and seventeen, an agent, to reside among or near the Wyandots, who shall also execute the duties of agent for the Senecas, and the Delawares on the Sandusky river; and an agent to reside among or near the Shawanees; who shall each

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receive twelve hundred dollars per annum, as a full compensation for their services.

SEC. 9. *And be it further enacted*, That the several sums hereinbefore appropriated, be paid out of any moneys in the Treasury not otherwise appropriated.—Approved, March 3, 1819.

An Act authorizing the sale of certain military sites.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites, belonging to the United States, as may have been found, or become useless for military purposes. And the Secretary of War is hereby authorized, on the payment of the consideration agreed for, into the Treasury of the United States, to make, execute, and deliver, all needful instruments, conveying and transferring the same in fee; and the jurisdiction, which had been specially ceded, for military purposes, to the United States, by a State, over such site or sites, shall thereafter cease.

Approved, March 3, 1819.

An Act in addition to, and alteration of an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries."

*Be it enacted, &c.*, That, from and after the passing of this act, there shall be paid, on the last day of December, annually, to the owner of every fishing boat or vessel, or his agent, by the collector of the district where such boat or vessel may belong, that shall be qualified, agreeably to law, for carrying on the Bank and other Cod fisheries, and that shall actually have been employed therein, at sea, for the term of four months, at least, of the fishing season next preceding, which season is accounted to be from the last day of February to the last day of November in every year, for each and every ton of such boats or vessels, burdened according to her admeasurement as licensed or enrolled, if of more than five tons, and not exceeding thirty tons, three dollars and fifty cents; if above thirty tons, four dollars; and if above thirty tons, and having had a crew of not less than ten persons, and having actually been employed in the cod fishery, at sea, for the term of three and one-half months, at the least, but less than four months, of the season, at least, three dollars and fifty cents: *Provided*, That the allowance aforesaid on any one vessel, for one season, shall not exceed three hundred and sixty dollars.

SEC. 2. *And be it further enacted*, That such parts of the fifth and sixth sections of the act hereby amended, as are contrary to the provisions of this act, be, and the same are hereby, repealed.—Approved, March 3, 1819.

An Act to authorize the Secretary at War to appoint an additional agent for paying pensioners of the United States in the State of Tennessee.

*Be it enacted, &c.*, That, from and after the passing of this act, the Secretary for the Depart-

ment of War be, and he is hereby, authorized to appoint an agent, in addition to the one already appointed in the State of Tennessee, under the act of the twenty-fourth of April, one thousand eight hundred and sixteen, for the purpose of paying pensioners of the United States, residing in East Tennessee; whose duties shall be, in all respects, similar to those appointed under the aforementioned act.

Approved, March 3, 1819.

An Act to authorize the Secretary of War to convey a lot or parcel of land, belonging to the United States, lying in Jefferson county, in the State of Virginia.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, authorized to convey, by deed, in fee simple, to a certain John Peacher, a lot, or parcel of land, with the appurtenances belonging to the same, lying in Jefferson county, in the State of Virginia, called the Keep-Tryst Furnace, and containing two hundred and twenty-one acres, belonging to the United States, upon such terms as he may think most conducive to the interest of the United States; and the money arising from the sale thereof, to deposite in the Treasury of the United States.

Approved, March 3, 1819.

An Act to designate the boundaries of districts, and establish land offices, for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana.

*Be it further enacted, &c.*, That, for the sale of the unappropriated public lands, in the State of Ohio, to which the Indian title is extinguished, the following districts shall be formed, and land offices therefor established: All the public lands, as aforesaid, lying between the western boundary line of the State of Ohio, and a north and south line to be drawn at forty-eight miles east of the said boundary line, and bounded on the south by the Indian boundary established by the Treaty of Greenville, and on the north by the northern boundary of the State of Ohio, shall form a district, for which a land office shall be established at Piqua. And all the public lands, as aforesaid, lying between the above described district and the western limits of the Connecticut Reserve and Canton land district as first established, and bounded on the south by the Indian boundary established by the Treaty of Greenville, and on the north by the northern boundary of the State of Ohio, shall form a district, for which a land office shall be established at the town of Delaware. And for the disposal of the unappropriated public lands in the State of Indiana, to which the Indian title is extinguished, the following districts shall be formed, and land offices established: All the public lands, as aforesaid, to which the Indian title was extinguished by the treaties concluded at St. Mary's, in the month of October, eighteen hundred and eighteen, lying east of the range line, separating the first and second ranges, east

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of the second principal meridian extended north to the present Indian boundary, and north of a line to be run, separating the ninth and tenth tiers of townships north of the base line, shall form a district, for which a land office shall be established at Brookville. And all the public lands, as aforesaid, the Indian title to which was extinguished by the treaties aforesaid, and lying west of the last described district, shall form a district, for which a land office shall be established at the town of Terre Haute. And all the public lands, as aforesaid, the Indian title to which was extinguished by the treaties aforesaid, lying east of the second principal meridian, and south of a line, to be run, separating the ninth and tenth tiers of townships north of the base line, shall be, and are hereby, attached to the district of Jeffersonville; and the said lands shall be offered for sale, with the same exceptions, and on the terms and conditions, in every respect, both at public and private sales, as is provided for the sale of the lands in the districts aforesaid: *Provided, also,* That the President of the United States shall have power, and he is hereby authorized, to remove, whenever he shall judge it expedient so to do, the land office from Jeffersonville, to some central and suitable place within the district.

*Sec. 2. And be it further enacted,* That the President is hereby authorized to appoint, by and with the consent and advice of the Senate, for each of the districts aforesaid, a register of the land office and receiver of public moneys; which appointments shall not be made, for any of the aforesaid respective land districts, until a sufficient quantity of public lands shall have been surveyed within such district as to authorize, in the opinion of the President, a public sale of land within the same; which registers of the land office and receivers of public moneys, when appointed, shall each, respectively, give security, in the same sums, and in the same manner, and whose compensation, emoluments, and duties, and authority, shall, in every respect, be the same, in respect to the lands which shall be disposed of at their offices, as are or may be provided by law in relation to the registers and receivers of public moneys in the several land offices, established for the disposal of the public lands of the United States, in the States of Ohio and Indiana.

*Sec. 3. And be it further enacted,* That all the public lands within the aforesaid several districts, to which the Indian title has been extinguished, and which have not been granted to, or reserved for, the use of any individual or individuals, or appropriated and reserved for any other purpose, by any existing treaties or laws, and, with the exception of section numbered sixteen, in each township, which shall be reserved for the support of schools therein, shall be offered for sale, to the highest bidder, at the land offices for the respective districts, under the direction of the register of the land office and receiver of public moneys, on such day or days as shall, by proclamation of the President of the United States, be designated for that purpose: the sales shall remain open at

each place for three weeks, and no longer; the lands shall not be sold for less than two dollars an acre; and shall, in every other respect, be sold in tracts of the same size, on the same terms and conditions as have been, or may be, by law, provided for the sale of the lands of the United States in the States of Ohio and Indiana. All the public lands in the said districts, with these exceptions abovementioned, remaining unsold at the close of the public sales, may be disposed of at private sale, by the register of the respective land offices, in the same manner, under the same regulations, for the same price, and on the same terms and conditions, in every respect, as are or may be provided by law for the sale of the lands of the United States in the States of Ohio and Indiana. And patents shall be obtained, for the lands sold in the said districts, in the same manner, and on the same terms, as are or may be by law provided for other public lands in the States of Ohio and Indiana.

*Sec. 4. And be it further enacted,* That the President of the United States shall have power, and he is hereby authorized, to remove, whenever he shall judge it expedient so to do, any and each of the land offices established by this act, to such suitable place, within the district for which it was established, as he shall judge most proper.

*Sec. 5. And be it further enacted* That each of the registers of the land office, and receivers of public moneys, shall receive five dollars for each day's attendance in superintending the public sales in their respective districts.

Approved, March 3, 1819.

An Act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein.

*Be it enacted, &c.,* That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territories of East and West Florida, and the appendages and appurtenances thereof; and to remove and transport the officers and soldiers of the King of Spain, being there, to the Havana, agreeably to the stipulations of a treaty between the United States and Spain, executed at Washington, on the twenty-second day of February, in the year one thousand eight hundred and nineteen, providing for the cession of said territories to the United States; and he may, for these purposes, and in order to maintain in said territories the authority of the United States, employ any part of the army and navy of the United States, and the militia of any State or Territory which he may deem necessary.

*Sec. 2. And be it further enacted,* That, until the end of the first session of the next Congress, unless provision for the temporary government of said territories be sooner made by Congress all the military, civil, and judicial powers, exercised by the officers of the existing government of the same territories, shall be vested in such person and persons, and shall be exercised in such

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manner, as the President of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relative to the collection of revenue, and the importation of persons of color, shall be extended to the said territories; and the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and, during the recess of Congress, to appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient.

SEC. 3. *And be it further enacted*, That the sum of twenty thousand dollars is hereby appropriated for the purpose of carrying this act into effect, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States.

SEC. 4. *And be it further enacted*, That this act shall take effect and be in force whenever the aforesaid treaty, providing for the cession of said territories to the United States, shall have been ratified by the King of Spain, and the ratifications exchanged, and the King of Spain shall be ready to surrender said territory to the United States, according to the provisions of said treaty.

Approved, March 3, 1819.

An Act concerning the allowance of pensions upon a relinquishment of bounty lands.

*Be it enacted, &c.*, That the second section of the act making further provision for military services during the late war, and for other purposes, approved April sixteenth, one thousand eight hundred and sixteen, and so much of the act to amend the same, approved March third, one thousand eight hundred and seventeen, as relates to the subject of that section, shall be continued in force for the term of three years from and after the passing of this act: *Provided, nevertheless*, That no pension shall be granted under the said acts after the sixteenth day of April next, unless, at the time of relinquishing the bounty land, in the manner therein described, the children, for whose benefit the same may be granted, or one of them, shall be under sixteen years of age: *And provided, also*, That the pensions shall commence at the date of the relinquishments respectively.

Approved, March 3, 1819.

An Act granting a donation of land to the State of Illinois, for the seat of government of said State.

*Be it enacted, &c.*, That there shall be granted to the State of Illinois four sections of land, or contiguous quarter sections and fractions, not exceeding the quantity contained in four entire sections, for the purpose of fixing thereon the seat of government for the said State; which lands shall be selected in the manner provided in the thirtieth section of the schedule to the constitution of

the said State: *Provided*, That such selection shall be made before the public sale of the adjoining public lands shall have taken place.

Approved, March 3, 1819.

An Act authorizing the purchase of fire engines, and for building houses for the safekeeping of the same.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized and requested to cause to be purchased two fire engines, of the first class, with proper copper suction pipes, and six hundred feet of rivet leathern hose, for the purpose of protecting the public and other buildings in the city of Washington from fire.

SEC. 2. *And be it further enacted*, That the President of the United States cause to be built two good and sufficient houses, for the safekeeping of the said engines; one to be located on the Capitol Hill, near the Capitol, and one near the President's house and public offices.

SEC. 3. *And be it further enacted*, That, for defraying the expenses of the same, the sum of four thousand five hundred dollars be, and is hereby, appropriated, out of any unappropriated money in the Treasury.

Approved, March 3, 1819.

An Act to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five-franc pieces.

*Be it enacted, &c.*, That the gold coins of Great Britain and Portugal, of their present standard, shall be a legal tender in the payment of all debts, at the rate of one hundred cents for every twenty-seven grains, or eighty-eight cents and eight-ninths per pennyweight: the gold coins of France, of their present standard, at the rate of one hundred cents for every twenty-seven and a half grains, or eighty-seven and a quarter cents per pennyweight: the gold coins of Spain at the rate of one hundred cents for every twenty-eight and a half grains, or eighty-four cents per pennyweight, until the first day of November next: and that, from and after that day, foreign gold coins shall cease to be a tender within the United States, for the payment of debts or demands.

SEC. 2. *And be it further enacted*, That so much of the act entitled "An act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain," passed on the twenty-ninth day of April, eighteen hundred and sixteen, as relates to foreign silver coins, shall be, and the same is hereby, continued in force for two years from and after the twenty-ninth day of April next, and no longer.

Approved, March 3, 1819.

An Act providing for the correction of errors in making entries of land at the land offices.

*Be it enacted, &c.*, That in every case of a purchaser of public lands, at private sale, having entered at the land office a tract different from

that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land office; and if it shall appear, from testimony satisfactory to the register and receiver of public moneys, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at the corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office; the said register and receiver of public moneys shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Treasury, who shall have power to direct, if in his opinion it shall be proper, that the purchaser shall be at liberty to withdraw the entry so erroneously made, and that the moneys which had been paid, shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which shall have been purchased at the same office.

Approved, March 3, 1819.

#### An Act concerning Invalid Pensions.

*Be it enacted, &c.,* That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to and receive pensions, according to the rates, and commencing at the times, hereinafter mentioned; that is to say:

Benajah Abro, at the rate of four dollars per month, to commence on the eleventh of October one thousand eight hundred and seventeen.

Robert Craighead, at the rate of four dollars per month, to commence on the thirty-first of January, one thousand eight hundred and eighteen.

Solomon Van Renssalaer, at the rate of thirty dollars per month, to commence on the thirteenth day of October, in eighteen hundred and twelve, and the sum of two thousand five hundred and eighty dollars, the amount of pension to him at the rate of twenty dollars per month, commencing on the thirtieth of January, one thousand eight hundred and two, and ending on the thirtieth of October, one thousand eight hundred and twelve, in consequence of wounds received while serving as a captain of dragoons under General Wayne, in a battle with the Indians, on the twentieth of August, one thousand seven hundred and ninety-four.

Thomas Bailey, at the rate of eight dollars per month, to commence on the ninth December, one thousand eight hundred and seventeen.

Benjamin Pincin, at the rate of eight dollars per month, to commence on the seventeenth of March, one thousand eight hundred and eighteen.

Caleb J. Whaley, at the rate of six dollars and fifty cents per month, to commence on the thirtieth of December, one thousand eight hundred and thirteen.

William Earnest, whose father died of wounds received in battle during the late war, to be ap-

plied, under the direction of the Secretary for the Department of War, in the education of the said William, at the Connecticut asylum for the education and instruction of deaf and dumb persons, for a period not exceeding five years, at the rate of two hundred and fifty dollars per annum.

John Low, at the rate of eight dollars per month, to commence on the twentieth day of January, one thousand eight hundred and seventeen.

Jeremiah Burnham, at the rate of eight dollars per month, to commence on the twentieth day of January, one thousand eight hundred and seventeen.

John Sargent, of Vermont, at the rate of four dollars per month, to commence on the sixth day of March, one thousand eight hundred and eighteen.

Peter Francisco, of Virginia, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and nineteen.

SEC. 2. *And be it further enacted,* That the pensions of the following named persons, already placed on the pension list of the United States, be increased to the sums herein respectively affixed to their names; the said increase to commence at the time hereinafter mentioned, and be in lieu of pensions they at present receive; that is to say:

Benjamin Merrill, at the rate of eight dollars per month, to commence on the twenty-eighth of November, one thousand eight hundred and seventeen.

Timothy Mix, at the rate of eight dollars per month, to commence on the eighteenth of April, one thousand eight hundred and seventeen.

William Lackin, at the rate of six dollars per month, to commence on the eighteenth of February, one thousand eight hundred and seventeen.

John Wright, at the rate of six dollars per month, to commence on the fourth of February, one thousand eight hundred and eighteen.

Samuel Key Kendall, at the rate of twenty dollars per month, to commence on the tenth day of March, one thousand eight hundred and eighteen.

James Campbell, at the rate of six dollars per month, to commence on the thirtieth of September, one thousand eight hundred and seventeen.

Philip Krugh, at the rate of eight dollars per month, to commence on the fifth of June, one thousand eight hundred and seventeen.

George Pierson, at the rate of eight dollars per month, to commence on the tenth of September, one thousand eight hundred and seventeen.

John Long, at the rate of eight dollars per month, to commence on the twenty-eighth of February, one thousand eight hundred and seventeen.

Thomas McBarney, at the rate of eight dollars per month, to commence on the twelfth of September, one thousand eight hundred and seventeen.

William Simpson, at the rate of eight dollars per month, to commence on the fifth of September, one thousand eight hundred and seventeen.

James C. Wingard, at the rate of eight dollars

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per month, to commence on the thirtieth of November, one thousand eight hundred and sixteen.

William Arnold, at the rate of seven dollars and fifty cents per month, to commence on the first day of April, one thousand eight hundred and eighteen.

Joseph S. Van Driesen, at the rate of twenty dollars per month, to commence on the tenth day of January, one thousand eight hundred and eighteen.

John Tilton, at the rate of thirteen dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eighteen.

Joseph Westcott, at the rate of twenty dollars per month, to commence on the twentieth day of October, one thousand eight hundred and seventeen.

Aaron Stafford, at the rate of ten dollars per month, to commence on the twentieth day of February, one thousand eight hundred and eighteen.

SEC. 2. *And be it further enacted*, That any pension granted by this act, or any other act hereafter to be passed, to any officer, soldier, or marine, who served in the Revolutionary war, shall cease and be discontinued, in case the individual to whom the same may be granted hath availed himself, or shall hereafter avail himself, of the provisions of an act, passed the eighteenth day of March, one thousand eight hundred and eighteen, entitled "An act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war."

SEC. 8. *And be it further enacted*, That all persons entitled to pensions in conformity with the provision of the act, entitled "An act to provide for persons disabled by known wounds during the Revolutionary war," passed April the eighteenth, eighteen hundred and six, and also, the fourth section of an act, entitled "An act concerning invalid pensioners," passed the twenty-fifth of April, one thousand eight hundred and eight, may be placed on the pension list by the Secretary of War without reporting the same to Congress.

Approved, March 3, 1819.

An Act for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans.

*Be it enacted, &c.*, That all the claims to land founded on complete grants from the Spanish Government, reported to the Secretary of the Treasury by the commissioners from the districts east and west of Pearl river, appointed under the authority of an act, entitled "An act for ascertaining the titles and claims to lands in that part of Louisiana, which lies east of the river Mississippi and island of New Orleans," which are contained in the several reports of the commissioners, and which are, in the opinion of the commissioners, valid, agreeably to the laws, usages, and customs of the said Government, be, and the same are hereby, recognised as valid and complete titles, against any claim on the part of the United

States, or right derived from the United States: And that all claims founded on British grants, contained in the said reports, which have been sold and conveyed according to the provisions of the treaty of peace between Great Britain and Spain, of the third of September, one thousand seven hundred and eighty-three, by which that part of Louisiana, lying east of the island of Orleans, was ceded to Spain, under the denomination of West Florida, or which were settled and cultivated by the person having the legal title therein, at the date of said treaty, are recognised as valid and complete titles against any claim on the part of the United States, or derived from the United States.

SEC. 2. *And be it further enacted*. That all claims, reported as aforesaid, and contained in the several reports of the said commissioners, founded on any order of survey, requette, permission to settle, or any written evidence of claim, derived from the Spanish authorities, which ought, in the opinion of the commissioners, to be confirmed, and which, by the said reports, appear to be derived from the Spanish Government before the twentieth day of December, one thousand eight hundred and three, and the land claimed to have been cultivated and inhabited on or before that day, shall be confirmed in the same manner as if the title had been completed: *Provided*, That, in all such claims where the plat and certificate of survey made prior to the fifteenth day of April, one thousand eight hundred and thirteen, under the authority of the Spanish Government, in pursuance of such claim, has not been filed with the said commissioners, such claim shall not be confirmed to any one person for more than twelve hundred and eighty acres; and that for all the other claims to land comprised in the reports aforesaid, and which ought, in the opinion of the commissioners, to be confirmed, the claimant to such lands shall be entitled to a grant therefor as a donation: *Provided*, That such grant, as a donation, shall not be made to any one person for more than twelve hundred and eighty acres; which confirmation of the said incomplete titles and grants of donations, hereby provided to be made, shall amount only to a relinquishment forever, on the part of the United States, of any claim whatever to the tract of land so confirmed or granted: *And provided, also*, That no such claim shall be confirmed to any person to whom the title to any tract of land shall have been recognised under the preceding provisions.

SEC. 3. *And be it further enacted*, That every person, or his or her legal representative, whose claim is comprised in the lists or register of claims, reported by the said commissioners, and the persons embraced in the list of actual settlers, or their legal representatives, not having any written evidence of claim reported as aforesaid, shall, where it appears, by the said reports, or by the said lists, that the land claimed or settled on had been actually inhabited or cultivated, by such person or persons in whose rights he claims, on or before the fifteenth day of April, one thousand eight hundred and thirteen, be entitled to a grant

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for the land so claimed, or settled on, as a donation: *Provided*, That not more than one tract shall be thus granted to any one person, and the same shall not contain more than six hundred and forty acres; and that no lands shall be thus granted which are claimed or recognised by the preceding sections of this act.

SEC. 4. *And be it further enacted*, That every person comprised in the said list of actual settlers, not having any written evidence of claim to land in said districts, and who, on the twelfth day of April, one thousand eight hundred and fourteen, shall have inhabited or cultivated a tract of land in either of the said districts, not claimed by virtue of either of the preceding sections of this act, shall be entitled to a preference, on becoming a purchaser, from the United States, of such tract of land, on the same terms and conditions, and at the same price, for which the other public lands are sold at private sale: *Provided*, That the first instalment of the purchase money shall be paid to the receiver of public moneys of the district within which the land lies, within two years after the opening of the land office for such district.

SEC. 5. *And be it further enacted*, That, for the purpose of adjusting the titles and claims to lands in the districts aforesaid, and for the disposal of the lands which may remain the property of the United States therein, a land office shall be established in each of the said districts, to be kept for the western district, at St. Helena Courthouse, and, for the eastern district, at Jackson Courthouse; and a register and receiver of public moneys shall be appointed for each of the said land offices, who shall give security in the same manner, and in the same sums, and whose compensation, duties, and authority, shall, in every respect, be the same, in relation to the lands which shall hereafter be disposed of, at their respective offices, as are by law provided in relation to the other registers and receivers of public moneys for the several land offices of the United States.

SEC. 6. *And be it further enacted*, That every person or persons, claiming lands in either of the said districts, whose claims have not heretofore been filed with the commissioner of the land office, of the district wherein the lands lie, shall be allowed until the first day of July, one thousand eight hundred and twenty, to deliver notices in writing, and the evidences of their claims, in the said districts, respectively, to the register of the land office at Jackson Courthouse and at St. Helena Courthouse; and the notices and evidences so delivered, within the time limited by this act, shall be recorded in the same manner, and on the payment of the same fees, as if the same had been delivered before the commissioners closed their said registers.

SEC. 7. *And be it further enacted*, That every person or persons, who had filed his or their notice of claims to land, within either of the said districts, with the commissioner of the land office, according to the former laws, but have not exhibited sufficient testimony in support of the same,

and whose claim has not been recommended for confirmation, shall be allowed until the first day of July, one thousand eight hundred and twenty, to deliver written evidence, or other testimony, in support of his or their claim, the notice of which had been filed as aforesaid, to the register of the land office at St. Helena, for lands lying in the district west of Pearl river, and to the register of the land office at Jackson Courthouse, for the lands lying in the district east of Pearl river; and the evidence of claims, the notice whereof had been filed, as aforesaid, for lands lying in the said district, delivered, within the time limited by this section, to the said registers, shall be recorded by them, respectively, in the same manner as was directed by former acts, on receiving the same fees allowed by said acts, for recording evidence of claims to lands in the same districts.

SEC. 8. *And be it further enacted*, That the register and receiver of public moneys of the said respective land offices, at Jackson Courthouse and at St. Helena Courthouse, shall have the same powers, and perform the same duties, in every respect, in relation to the claims that may be filed in virtue of the sixth section of this act, and in relation to the claims, the notices of which had been filed under former acts, as well as to the additional evidence which shall be adduced in support thereof, agreeably to the seventh section of this act, as the commissioners for the districts east and west of Pearl river would have had, or should have performed, if such notices had been filed, and such evidence adduced, before the said commissioners closed their registers.

SEC. 9. *And be it further enacted*, That it shall be the duty of the register of each of the said land offices, respectively, to make, to the Commissioner of the General Land Office, a report of all the claims filed with the register aforesaid, with the substance of the evidence in support thereof; and of the claims formerly filed, in support of which additional evidence shall have been received, with the substance of such evidence; and also their opinion, and such remarks respecting the claim as they may think proper to make; which report, together with a list of the claims, which, in the opinion of the register and receiver, ought to be confirmed, and also a list of actual settlers, prior to the passage of this act, noting the time of their respective settlements, shall be laid, by the Commissioner of the General Land Office, before Congress, at their next session, for their determination thereon.

SEC. 10. *And be it further enacted*, That the said registers and receivers shall, respectively, have power to appoint a clerk, who shall be a person capable of translating the French and Spanish languages, and who shall perform the duty of translator, when required by said registers and receivers; and each of the said registers and receivers shall be allowed, as a compensation for their services in relation to the said claims, at the rate of fifteen hundred dollars a year; and each of the clerks at the rate of one thousand dollars a year: *Provided*, That not more than eighteen months' compensation be thus allowed

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to the register, receiver, and clerk, for the district east of Pearl river; nor more than eighteen months' compensation be allowed to the register, receiver, and clerk, of the district west of Pearl river.

Sec. 11. *And be it further enacted*, That the surveyor for the lands south of the State of Tennessee shall, with the consent and approbation of the President of the United States, appoint a principal deputy surveyor for the lands within the said districts, who shall receive an annual salary of five hundred dollars, and, in addition thereto, the following fees; that is to say: for examining and recording the surveys executed by any of the deputies, at the rate of twenty-five cents for every mile of the boundary line of such survey; and for a certified copy of any plat of a survey in the office, twenty-five cents; and whose duty it shall be to survey, or cause to be surveyed, by his other deputies, the lands, the claims to which are confirmed, and that are directed to be granted as donations, where the same have not been already surveyed, and the lands which may be claimed by right of pre-emption, whenever directed by the register and receiver, and to execute such other surveys as may be necessary for the ascertainment of the lands, the title or claim to which is embraced in the report of the commissioners aforesaid. And the said principal deputy surveyor shall make out particular plats of the surveys directed by this act, which he shall return to the register of the proper district; and also, a general and connected plat, which he shall return to the surveyor of the lands south of the State of Tennessee; and the expense of surveying shall be paid by the United States: *Provided*, The same shall not exceed, in the whole, four dollars a mile, for every mile which shall be actually surveyed and marked.

Sec. 12. *And be it further enacted*, That the books of the former commissioners, in which the claims, and evidence of claims, are recorded, shall be lodged with the registers of the land office, for the respective districts; and the register and receiver of public moneys, in each respective district, shall have power to examine the claims recognised, confirmed, or provided to be granted, by the provisions of this act, as also, claims to the right of pre-emption; and they shall make out to each claimant, entitled, in their opinion, thereto, a certificate, according to the nature of the case, under such instructions as they may receive from the Commissioner of the General Land Office; and on presentation at the General Land Office of such certificate for a confirmed claim, or for a donation, according to the provisions of this act; and where it shall appear, to the satisfaction of the Commissioner of the General Land Office, that the certificate has been fairly obtained, according to the true intent and meaning of this act, then, and in that case, a patent shall be granted, in like manner as for other lands of the United States.

Sec. 13. *And be it further enacted*, That the President shall have power to appoint the register and receiver of public moneys for the said dis-

tricts in the recess of the Senate, who shall be nominated to them at their next meeting.

Approved, March 3, 1819.

An Act in addition to the acts prohibiting the Slave Trade.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any of the armed vessels of the United States to be employed to cruise on any of the coasts of the United States, or Territories thereof, or of the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of Congress prohibiting the same, and to instruct and direct the commanders of all armed vessels of the United States, to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of color, in violation of any of the provisions of the act, entitled "An act in addition to an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same," or of any other act or acts prohibiting the traffic in slaves, to be proceeded against according to law. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall seize, take, or bring, the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or revenue cutter thereof. And the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy. *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall save keep every negro, mulatto, or person of color, found on board of any ship or vessel so seized, taken, or brought into port, for condemnation, and shall deliver every such negro, mulatto, or person of color, to the marshal of the district in which they are brought, if into a port of the United States, or, if elsewhere, to such person or persons as shall be lawfully appointed by the President of the United States, in the manner hereinafter directed, transmitting to the President of the United States, as soon as may be after such delivery, a descriptive list of such negroes, mulattoes, or persons of color, that he may give directions for the disposal of them. *And provided further*, That the commanders of such commissioned vessels do cause to be apprehended, and taken into custody, every person found on board of such vessel, so seized and taken, being of the officers or crew thereof, and him or them convey, as soon as con-



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veniently may be, to the civil authority of the United States, to be proceeded against, in due course of law, in some of the districts thereof.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, to make such regulations and arrangements, as he may deem expedient, for the safekeeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction; and to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States' armed vessels.

SEC. 3 *And be it further enacted*, That a bounty of twenty-five dollars be paid to the officers and crews of the commissioned vessels of the United States, or revenue cutters, for each and every negro, mulatto, or person of color, who shall have been, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive them: And the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, to such officers and crews, or their agent, the aforesaid bounty, for each person delivered as aforesaid.

SEC. 4. *And be it further enacted*, That when any citizen, or other person, shall lodge information with the attorney for the district of any State or Territory, as the case may be, that any negro, mulatto, or person of color, has been imported therein, contrary to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution, by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of color, so alleged to be imported contrary to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of a jury, that such negro, negroes, mulatto, mulattoes, person or persons of color, have been brought in, contrary to the true intent and meaning of the acts in such cases made and provided, then the court shall direct the marshal of the said district to take the said negroes, mulattoes, or persons of color, into his custody, for safekeeping, subject to the orders of the President of the United States: and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portion of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of fifty dollars, for each and every negro, mulatto, or person of color, who shall have been delivered into the custody of the marshal; and the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the

number of negroes, mulattoes, or persons of color, so delivered.

SEC. 5. *And be it further enacted*, That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the State or Territory to which such vessel, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

SEC. 6. *And be it further enacted*, That all such acts, or parts of acts, as may be repugnant to the provisions of this act, shall be, and the same are hereby, repealed.

SEC. 7. *And be it further enacted*, That a sum not exceeding one hundred thousand dollars, be, and the same is hereby, appropriated to carry this law into effect.

Approved, March 3, 1819.

An Act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard, and Chesapeake, Bays, Lakes Ontario and Erie, and for other purposes.

*Be it enacted, &c.*, That it shall be the duty of the Secretary of the Treasury to provide, by contract, which shall be approved by the President of the United States, for building light-houses, erecting beacons or landmarks, and placing light vessels or boats, on the following sites or shoals, to wit:

A light-house on Long Island Head, and a beacon or landmark on Half-way Rock, in Boston Bay; and also a light-house on Bird's Island, in Buzzard's Bay, in the State of Massachusetts.

A light-house on Galloo Island, near the outlet of Lake Ontario, in the State of New York.

A light-house, at a proper place, at or between the mouth of Grand River, in the State of Ohio, and the mouth of Detroit River, in the Territory of Michigan.

Three light-houses, on the following sites: one on the Bodkin, one on North Point, and one on Sparrow's Point, in the State of Maryland.

A light-house on Windmill Point, at the mouth of Rappahannock river, or a light vessel or boat on the Wolf-trap shoals, if the latter shall be deemed preferable to a light-house on Windmill Point; a light-house on Craney Island, at the mouth of Elizabeth river, and a light vessel, or boat, on Willoughby's Spit, between Lynnhaven Bay and Hampton Roads, in the State of Virginia: And a beacon, or landmark, on Wolf Island, near the port of Darien, in the State of Georgia.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause three buoys to be placed in such manner as to mark out the channel leading into the harbor of Boston, and one buoy to be placed on West Island Ledge, in Buzzard's Bay; a spindle, or buoy, on the outer rock of the reef run-

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ning from Cochney's Island to Eastern Norwalk Island; another spindle, or buoy, on the reef running about southwest from the western point of the Western Norwalk Island; and a spindle on the rock off the point of Fairweather Island, in the State of Connecticut: And twenty buoys in the Chesapeake Bay, and Patapsco river, for designating the shoals and channel, in the State of Maryland.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause a pier to be carried out to nine feet water, at the light-house heretofore authorized to be erected at the mouth of the Mississippi; and, also, that he cause the present wood tower, at the Seguin light-house, in the State of Massachusetts, to be replaced with one of stone.

SEC. 4. *And be it further enacted*, That there be appropriated, out of any moneys in the Treasury of the United States, not otherwise appropriated, the following sums of money, to accomplish the purposes heretofore enumerated in this act, to wit: For the erection and establishment of light-houses on Long Island Head, on Bird's Island, and a beacon or landmark on Half-way Rock, eleven thousand five hundred dollars: For a light-house on Galloo Island, near the outlet of Lake Ontario, twelve thousand five hundred dollars: For a light-house, at a proper place, at or between the mouth of Grand river and Detroit river, five thousand dollars: For three light-houses, one on the Bodkin, one on North Point, and one on Sparrow's Point, in the Chesapeake Bay, and on the Patapsco river, nine thousand dollars: For a light-house on Windmill Point, or light vessel or boat on the Wolf-trap shoals, a light vessel or boat on Wiltoughby's Spit, between Lynnhaven Bay and Hampton Roads, and a light-house on Craney Island, at the mouth of Elizabeth river, twelve thousand dollars: For three buoys, to mark out the channel leading into Boston harbor, and for one to be placed on West Island Ledge, in Buzzard's Bay, sixteen hundred dollars: For the spindles or buoys on the reef running from Cochney's Island; for that on the reef running about southwest from the western point of the Western Norwalk's Island, and for that on the rock off the point of Fairweather Island, twelve hundred dollars: For twenty buoys, to be placed in the Chesapeake Bay and Patapsco river, eight thousand dollars: For the pier to be carried out from the light-house at the mouth of the Mississippi, four thousand dollars; and for replacing the tower at the Seguin light-house, twenty-five hundred dollars; and for a beacon or landmark on Wolf Island, near the port of Darien, in the State of Georgia, one thousand dollars.

SEC. 5. *And be it further enacted*, That, to make up the deficiencies of the appropriations heretofore made, for the purposes following, the several sums, respectively named, be, and they are hereby, appropriated, payable out of any money in the Treasury not otherwise appropriated, to wit: To pay for the land, and erecting the light-house, at Holmes's Hole, sixty-three dol-

lars: For erecting a light-house on the south point of Sapelo Island, two thousand five hundred and five dollars.

SEC. 6. *And be it further enacted*, That the sum of three thousand and twenty-seven dollars be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in addition to the sums heretofore appropriated, to pay the salaries to the several keepers of the light-houses within the United States; to be applied, under the direction of the Secretary of the Treasury, so as to fix the annual salary of each keeper aforesaid, at the rate of three hundred and fifty dollars per annum.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury, in case he shall deem it expedient and proper, may cause the light-house heretofore authorized to be erected on the south point of Sapelo Island, to be changed to, and placed on, Wolf's Island.

Approved, March 3, 1819

An Act to repeal part of an passed on the twenty-seventh day of February, one thousand eight hundred and thirteen, entitled "An act in addition to 'An act regulating the Post Office Establishment.'"

*Be it enacted, &c.*, That so much of the last clause of the "Act in addition to 'An act regulating the Post Office Establishment,'" passed the twenty-seventh day of February, one thousand eight hundred and thirteen, as contains these words, being the concluding words of the clause, namely: "And that such contracts shall secure the regular transportation of the mail throughout the year;" be, and the same is hereby, annulled and repealed.

Approved, March 3, 1819.

## RESOLUTIONS.

Resolution declaring the admission of the State of Illinois into the Union.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, whereas, in pursuance of an act of Congress, passed on the eighteenth day of April, one thousand eight hundred and eighteen, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," the people of said Territory did, on the twenty-sixth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven: *Resolved by the Sen-*

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*ate and House of Representatives of the United States of America in Congress assembled, That the State of Illinois shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.*

Approved, December 3, 1818.

Resolution authorizing the transmission of certain documents free of postage.

*Resolved, &c., That the members of Congress, the Delegates from Territories, the Secretary of the Senate, and the Clerk of the House of Representatives, be, and they are hereby, authorized to transmit, free of postage, to any post office within the United States or the Territories thereof, any documents which have been, or may be, communicated to either House of Congress, during the present session, by the President of the United States or either of the Heads of Departments, and printed for the use of Congress.*

Approved, December 5, 1818.

Resolution directing a survey of certain parts of the coast of North Carolina.

*Resolved, &c., That the President of the United States be, and he hereby is, requested to cause surveys to be made of the points of Cape Hatteras, Cape Lookout, and Cape Fear, and of the shoals of those capes, respectively; and to cause such an examination to be made of those capes and shoals, respectively, as will ascertain the practicability of erecting light-houses, beacons, or buoys, on or near the extreme points of them, or either of them; and also to cause the latitude and longitude of the said capes, extreme points, and shoals, respectively, to be ascertained with as much exactness as may be practicable; and that the results of such surveys and examinations be reported to Congress.*

Approved, January 19, 1819.

Resolution for the distribution of Seybert's Statistical Annals; and directing Pitkin's Commercial Statistics to be deposited in the Library.

*Resolved, &c., That the Secretary of State cause to be distributed one copy of Seybert's Statistical Annals to the President of the United States; to the Vice President of the United States, and to the Executive of each State and Territory, one copy; two copies for the use of each of the Departments, viz: State, Treasury, War, and Navy; one copy for the use of the Attorney General of the United States; and one copy to each member and delegate of the Fifteenth Congress; and one copy to each college and university in the United States, if applied for by such college or university; and the residue of the five hundred copies of the Annals aforesaid, together with the two hundred and fifty copies of Pitkin's Commercial Statistics, shall be de-*

*posited in the Library of Congress, for the use of the members.*

Approved, January 23, 1819.

Resolutions authorizing the transmission of the documents accompanying the report of the committee to examine into the proceedings of the Bank of the United States, free of postage.

*Resolved, &c., That the Members of Congress, the Delegates from Territories, the Secretary of the Senate, and Clerk of the House of Representatives, be, and they are hereby, authorized, to transmit, free of postage, to any post office within the United States, or the Territories thereof, the documents accompanying the report of the committee appointed by the House of Representatives to examine into the proceedings of the Bank of the United States.*

Approved, February 15, 1819.

Resolutions directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and providing for the appointment of a printer or printers.

*Resolved, &c., That the printing of Congress, unless when otherwise specially ordered, shall be done in the following form and manner, viz:*

*Bills, as heretofore, with English type, on foolscap paper. Rule or table-work, in royal octavo size, where it can be brought into that size, by any type not smaller than brevier; and where it cannot, in such form as to fold conveniently into the volume. All other printing with a small pica type, on royal paper, in pages of the same size as those of the last edition of the laws of the United States, including the marginal notes.*

*And the following prices shall be allowed and paid for the above described work: For the composition of every page of bills, one dollar; of every page of small pica, plain work, one dollar; of every page of small pica, rule-work, two dollars; every page of brevier, rule-work, three dollars and fifty cents; and for a larger form of brevier rule-work, in proportion.*

*For the press-work of bills, including paper, folding, and stitching—for fifty copies, twenty-five cents per page; for four hundred copies, one dollar and twenty-five cents per page; for the press-work of tables, other than those in the regular octavo form, for six hundred copies, including as above, five dollars and fifty cents, per form; for the press-work of the Journals, of nine hundred copies, including as above, one dollar per page; for all other printing, in the octavo form, of six hundred copies, including as above, eighty-seven and a half cents per page; and for a larger or smaller number, in proportion.*

*That, as soon as this resolution shall have been approved by the President of the United States, each House shall proceed to ballot for a printer, to execute its work during the next Congress; and the person having the greater number of votes shall be considered duly elected, and shall give bond, with sureties, to the satisfaction of the Secretary of the Senate and Clerk of the*

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House of Representatives, respectively, for the prompt, accurate, and neat execution of the work; and in case any inconvenient delay should be, at any time, experienced by either House, in the delivery of its work, the Secretary and Clerk, respectively, may be authorized to employ another printer to execute any portion of the work of the Senate or House, and charge the excess, in the account of such printer, for executing such work, above what is herein allowed, to the printer guilty of such negligence and delay: *Provided*, That nothing herein contained shall preclude the choice of the same printer by the Senate and by the House of Representatives.

Approved, March 3, 1819.

Resolution declaring the manner in which the vessels composing the Navy of the United States shall be named.

*Resolved, &c.*, That all ships of the Navy of the United States, now building, or hereafter to be built, shall be named by the Secretary of the Navy, under the direction of the President of the United States, according to the following rule, to wit: Those of the first class shall be called after the States of this Union; those of the second class after the rivers; and those of the third class after the principal cities and towns; taking care that no two vessels in the Navy shall bear the same name.

Approved, March 3, 1819.